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#### SECTION 1 DEFINITIONS.

The word "city" as hereinafter used shall mean and designate the City of Bristow, Creek County, Oklahoma, and the word "company" as hereinafter used shall mean and designate the Oklahoma Gas and Electric Company, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma and its successors and assigns. The word "property" as hereinafter used shall mean and designate all rights, and contracts of whatsoever kind, and all poles, wires, cables and other appliances, appurtenances and fixtures owned by the company and located within the corporate limits of the city. (Ord. No. 436, 4/21/60)

#### SECTION 2 GRANT OF FRANCHISE.

A. The franchise ordinance, when the same is approved by a vote of the qualified electors of the city, shall and does grant to the company the right, privilege and authority to construct, maintain and operate a system of poles, wires, conduits, transformers, substations and other fixtures and equipment in, upon, across, under and over the streets, alleys, public grounds and other places in each and every part of the city for the purpose of transmitting, distributing and selling electricity for all purposes for which it may be used, to the city and to the public generally.

B. The franchise hereby granted shall be effective from and after the date of the approval of this ordinance by the qualified electors of the city and shall remain in full force and effect for a period of twenty-five (25) years unless terminated sooner as hereinafter provided. The rights granted herein shall not be exclusive. (Ord. No. 436, 4/21/60)

### SECTION 3 NOT TO IMPEDE TRAFFIC.

The company shall construct and maintain its property in such a manner as not to obstruct nor impede traffic unduly. (Ord. No. 436, 4/21/60)

### SECTION 4 HOLD HARMLESS.

The company shall defend and indemnify the city against all lawful claims for injury to any person or property caused by the negligence of the company in the construction or operation of its property. (Ord. No. 436, 4/21/60)

### SECTION 5 RATES.

The rate or rates charged the city and the public generally shall be compensatory and reasonable and shall be subject to the rules and regulations of the Corporation Commission of the State of Oklahoma or other legally constituted authority. (Ord. No. 436, 4/21/60)

### SECTION 6 ASSIGNMENT.

The company shall have the right to assign this franchise and the assignee by written acceptance thereof shall be bound thereby. An authenticated copy of the assignment shall be filed with the city clerk. (Ord. No. 436, 4/21/60)

### SECTION 7 FRANCHISE FEE.

The company shall pay to the city two percent (2%) of its gross receipts arising from the sale of electricity within the city limits, such payment to be made on or before the 20th day of July each year after deducting therefrom any amount due the company from the city. (Ord. No. 436, 4/21/60)

### SECTION 8 SERVICE TO THE CITY.

The company shall furnish without charge current for buildings and institutions, including park lighting, occupied and operated by the city in any amount not to exceed sixty thousand (60,000) kilowatt-hours in any one fiscal year. (Ord. No. 436, 4/21/60)

### SECTION 9 TERMINATION OF FRANCHISE, PURCHASE OF SYSTEM BY CITY.

A. The city reserves the right to terminate this franchise by the purchase of the company's property as hereinafter provided. The purchase price shall exclude all value of this franchise. The city, if it elects to terminate this franchise, shall give the company written notice that at the expiration of one year after date of delivery of the notice to the company, it intends to proceed to purchase the company's property and terminate this franchise. If at the expiration of such year the city elects to proceed further to exercise its rights of purchase, it shall so notify the company in writing and shall demand on appraisal of the property, which will be made by three (3) engineers of well-known ability, none of whom shall have been within one year previous an employee, a resident, taxpayer, or employee of the city. Upon receipt by the company of the notice, it shall acknowledge receipt of same and thereafter the city shall designate one engineer of the proper qualifications and communicate his name to the company which shall appoint one engineer of the proper qualifications. If the engineers selected by the

city and the company fail or neglect to select its engineer, then a judge of the district court of Creek County, Oklahoma, after ten (10) days' notice by the city to the company of the time and place of hearing therefor, shall have the power, unless in the meantime appointments have been made, to appoint such engineer or engineers. The engineers so selected shall proceed to make an appraisalment of the property of the company and agree upon and fix the price thereof and make returns of such appraisalment to the city and to the company and file a copy thereof with the city clerk. Thereafter if the city elects to proceed further to exercise its right of purchase it shall have a reasonable length of time, not to exceed six (6) months from the date of filing the appraisalment with the city clerk, within which to submit to the qualified property taxpaying voters at an election held for that purpose the proposition of issuing its negotiable bonds with which to provide funds for acquiring the company's property.

B. In the event the city shall finally acquire the property, the valuation fixed by the appraisers, or a majority of them, shall be binding upon the parties hereto, providing the city shall pay, in addition to the valuation as fixed by the appraisers, the actual cost of all additions, replacements and betterments made by the company between the date of the fixing of the valuation by the appraisers and the date of payment therefor, provided all such additions, replacements and betterments shall first be approved by the city council. In the event the city acquires the property, the company shall at that time reimburse the city for one-half (1/2) of the expense of the appraisalment.

C. If the bonds are not authorized at the election, or if for any other reason the city should fail to make funds available for the purchase of the property within six (6) months after the appraisalment has been made, the notice of intention to purchase the property shall be null and void, and all expenses of the appraisalment shall be borne by the city. (Ord. No. 436, 4/21/60)

#### SECTION 10 ELECTION.

A special election is hereby called for the purpose of submitting this ordinance to the qualified electors of the city for their approval or disapproval. The election shall be held on the 31st day of May, 1960, between the hours of 7:00 A.M. and 7:00 P.M. The mayor is authorized and directed to issue an election proclamation calling such election and for the submission of this ordinance to the qualified electors of the city. If the qualified electors of the city fail to approve this franchise at the election, no rights shall accrue hereunder. (Ord. No. 436, 4/21/60)

#### SECTION 11 SUPERSEDES OTHER FRANCHISES.

The franchise hereby granted shall, on its effective date, supersede and terminate any previous franchise granted to or held by the company. (Ord. No. 436, 4/21/60)

#### SECTION 12 ACCEPTANCE.

In case the franchise hereby granted is approved at the election, the company shall file with the city clerk, in writing, its acceptance of this ordinance. The acceptance shall be filed within thirty (30) days from and after this ordinance has been approved by the electors. (Ord. No. 436, 4/21/60)

#### APPENDIX 2

#### GAS FRANCHISE

(RESERVED)

## APPENDIX 3

### CABLE TELEVISION FRANCHISE

#### Sections:

- Section 1 Short Title.
- Section 2 Definitions.
- Section 3 Grant of non-exclusive authority.
- Section 4 Compliance with applicable laws and ordinances.
- Section 5 Territorial area involved.
- Section 6 Liability and indemnification.
- Section 7 Color TV.
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- Section 25 Erection, removal, and common use of poles.
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#### SECTION 1 SHORT TITLE.

This ordinance shall be known and may be cited as the "Green Country Cablevision of Bristow, Inc., Non-Exclusive Franchise Ordinance." (Ord. No. 12/3/79)

Note: This franchise was approved by the voters on November 27, 1979. Franchise fee is three percent (3%).

#### SECTION 2 DEFINITIONS.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future,

words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory:

1. “City” is the City of Bristow and the Municipal Authority of the City of Bristow;
2. “Council” is the City Council of Bristow; and
3. “Green Country Cablevision of Bristow, Inc., hereinafter referred to as GCC System” or “System”, means a system of coaxial cables or other electrical conductors and equipment used or to be used for the operation and transmission of television and audio signals to subscribers for a fee. (Ord. No. 12/3/79)

### SECTION 3 GRANT OF NON-EXCLUSIVE AUTHORITY.

A. There is hereby granted by the city to grantee the right and privilege to construct, erect, operate and maintain, in, upon, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the city of a GCC System.

B. The right to use and occupy the streets, alleys, 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 the streets, alleys, public ways and places, to any person at any time during the period of this non-exclusive franchise. (Ord. No. 12/3/79)

### SECTION 4 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

The grantee shall, at all times during the life of this non-exclusive franchise, be subject to all lawful exercise of the police power of the city and to such reasonable regulation as the city shall hereafter provide. (Ord. No. 12/3/79)

### SECTION 5 TERRITORIAL AREA INVOLVED.

This non-exclusive franchise relates to the present territorial limits of the city and to any area henceforth added thereto during the term of this non-exclusive franchise. (Ord. No. 12/3/79)

### SECTION 6 LIABILITY AND INDEMNIFICATION.

A. The grantee shall pay and by its acceptance of this non-exclusive franchise the grantee specifically agrees that it will pay all damages and penalties which the city may legally be required to pay as a result of granting this non-exclusive franchise. 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 the installation, operation, or maintenance of the GCC System authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this non-exclusive franchise.

B. The grantee shall pay and by its acceptance of this non-exclusive franchise specifically agrees that it will pay all expenses incurred by the city in defending itself with regard to all damages and penalties mentioned in Subsection A above. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorney fees, and shall also include the reasonable value of any services rendered by the city attorney or his assistants of any employees of the city.

C. The grantee shall maintain, and by its acceptance of this non-exclusive franchise specifically agrees that it will maintain throughout the term of this non-exclusive franchise liability insuring the city and the grantee with regard to all damages mentioned in Subsection A above in the minimum amounts of:

1. One Hundred Thousand Dollars (\$100,000.00) for bodily injury or death to any one person, within the limit, however, of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death resulting from any one accident;
  2. Fifty Thousand Dollars (\$50,000.00) for property damage resulting from any one accident; and
  3. One Hundred Thousand Dollars (\$100,000.00) for all other types of liability.
- D. The insurance policy obtained by the grantee in compliance with this section must be approved by the council and such insurance policy along with written evidence of payment of required premiums, shall be filed and maintained with the city clerk during the term of this non-exclusive franchise. (Ord. No. 12/3/79)

#### SECTION 7 COLOR TV.

The facilities used by the grantee shall be capable of distributing color TV signals, and when the signals the grantee distributes are received in color they shall be distributed in color when technically feasible. (Ord. No. 12/3/79)

#### SECTION 8 OPERATION AND MAINTENANCE OF SYSTEM.

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. (Ord. No. 12/3/79)

#### SECTION 9 CARRIAGE OF LOCALLY ORIGINATED PROGRAMMING.

Grantee shall be authorized to originate programming, two (2) way information services, music, advertising, weather advisories, educational services and public service announcements as authorized and/or required by law or regulation. (Ord. No. 12/3/79)

#### SECTION 10 EMERGENCY USE OF FACILITIES.

In case of any emergency or disaster, the grantee shall, upon request of the mayor or council, make available its facilities to the city for emergency use during the emergency or disaster period. (Ord. No. 12/3/79)

#### SECTION 11 OTHER BUSINESS ACTIVITIES.

A. Neither the grantee nor any principal or employee of the grantee shall engage in the business of selling, repairing, or installing television receivers, radio receivers or accessories for such receivers, within the city during the term of this non-exclusive franchise and grantee shall not allow any of its principals or employees to so engage in any such business.

B. This non-exclusive franchise authorizes only the operation of a GCC System as provided for herein, and does not take the place of any other non-exclusive franchise, license or permit which might be required by law of the grantee. (Ord. No. 12/3/79)

#### SECTION 12 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 and all applicable state and local laws, and in such manner that they will not interfere with any installations of the city or of any public utility serving the city.

C. All structures and all lines, equipment, and connections in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the city, where situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair. (Ord. No. 12/3/79)

#### SECTION 13 CONDITIONS OF STREET OCCUPANCY.

A. All transmission and distribution structures, lines, and equipment erected by the grantee within the city shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets, alleys, or other public ways and places.

B. In case of disturbance of any street, sidewalk, alley, public way, or paved area, the grantee shall, at its own cost and expense and in a manner approved by the city replace and restore such street, sidewalk, alley, public way, or paved area in as good condition as before the work involving such disturbance was done, using materials of the same nature as that covering the street, sidewalk, alley, public way or paved area.

C. If at any time during the period of this non-exclusive permit 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 wires 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. The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the city, such trimming may be done by it or under its supervision and direction at the expense of the grantee.

G. In all sections of the city where the cables, wires, or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires, or other facilities underground to the maximum extent that existing technology reasonably permits the grantee to do so. (Ord. No. 12/3/79)

#### SECTION 14 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

The grantee shall not, as to rates, charges, service, service facilities, rules, regulations or in any other respect, make or grant any undue preference or advantage to any person nor subject any person to any prejudice or disadvantage, with the exception of the following:

1. There will be a twenty percent (20%) discount to people who are sixty-five (65) or older and head of household, on all rates;

2. During the first sixty (60) days that GCC System service is available to a resident of Bristow, they may subscribe without paying any installation charges;

3. GCC System will provide free of charge basic Cable TV service to all public schools and municipal buildings provided that the cable installation does not exceed one hundred fifty (150) feet. In the event the installation does exceed one hundred fifty (150) feet, there will be time and materials charges for the installation;

4. GCC System will complete construction to eighty-five percent (85%) of the City of Bristow within twelve (12) months after receiving all necessary permits. Construction to the remainder of the city as well as surrounding county areas will proceed from that point on a basis of thirty-five (35) homes per mile. No residents

need subscribe prior to construction of the cable. GCC System will be thirty-five (35) channel two (2) way capable and will expand as consumer demand and available cable programming make it feasible; and

5. As compensation to the city for the use of its property and in lieu of any license or other taxes or charges, grantee shall, within thirty (30) days following the last day of each year of the grantee's fiscal year, pay to the city three percent (3%) of the gross receipts from subscribers, exclusive of convertor charges. Grantee shall keep accurate records showing the names of its subscribers, the date of the installation of its equipment, and the amount of money received by it from the subscribers each month. A statement shall be submitted to the city and shall be signed and verified by an official of grantee as a true and correct statement of the gross receipts received by it from subscribers for the preceding twelve (12) month period and shall accompany the check for payment of three percent (3%) thereof. (Ord. No. 12/3/79)

#### SECTION 15 REMOVAL OF FACILITIES UPON REQUEST.

Upon termination of service to my subscriber, the grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request. (Ord. No. 12/3/79)

#### SECTION 16 TRANSFER OF NON-EXCLUSIVE FRANCHISE.

The grantee shall not transfer this non-exclusive franchise to another person without prior approval of the city. (Ord. No. 12/3/79)

#### SECTION 17 CITY RIGHTS IN NON-EXCLUSIVE FRANCHISE.

A. The right is hereby reserved to the city or to the council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional, regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

B. The city shall have the right to inspect the books, records, maps, plans, income tax returns, and other like materials of the grantee at any time during normal business hours.

C. The city shall, have the right, during the life of this non-exclusive franchise, to install and maintain free of charge upon the poles of the grantee any wire and pole fixtures necessary for a police alarm system, on the condition that such wire and pole fixtures do not interfere with the GCC System operations of the grantee.

D. At the expiration of the term for which this non-exclusive franchise is granted, or upon its termination and cancellation, as provided herein, the city shall have the right to require the grantee to remove at its own expense all portions of the GCC System from all public ways within the city.

E. At the expiration of the term for which this non-exclusive franchise is granted, or upon its termination or cancellation, 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, above price shall not include, and the grantee shall not receive, anything for the valuation of any right or privilege appertaining to it under this non-exclusive franchise. Upon the exercise of this option 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, or the GCC System, free and clear of 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 entered into by it with reference to its operations under this non-exclusive franchise that the contract shall be subject to the exercise of this option. Provided, however, that the city shall have the right unilaterally to increase the purchase price provided for above, should it so elect, by an ordinance amendatory hereto. But right shall not be construed as giving the grantee a right to any price in excess of that set forth above.

F. Upon the exercise of the option by the city to purchase and take over the GCC 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 of the city, another to be selected by the grantee, and the two (2) parties so selected shall mutually agree upon a third party and 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 the grantee are unable to agree upon a third party, then the District Judge of Creek County, Oklahoma, shall serve as the third party. The party selected by the mayor of the city shall be with approval of the council.

G. After the expiration of the term for which this non-exclusive franchise is granted, or after its termination and cancellation, as provided for herein, the city shall have the right to determine whether the grantee shall continue to operate and maintain, for a reasonable fee, the GCC System pending the decision of the city as to the future maintenance and operation of such system. (Ord. No. 12/3/79)

#### SECTION 18 INITIAL SUBSCRIBER RATES AND CHARGES.

A. The following initial subscriber rates and charges are adopted:

1. Initial tap-in and connection charges, Fourteen Dollars and ninety-five cents (\$14.95);
2. Additional connection at same location and at same time as original connection, free;
3. Subsequent connection at a later date, Seven Dollars and fifty-cents (\$7.50);
4. Relocation of outlet, Seven Dollars and fifty-cents (\$7.50);
5. Transfer to new residence, Seven Dollars and fifty-cents (\$7.50);
6. Reconnection, Five Dollars (\$5.00); and
7. Installation of Pay TV, Ten Dollars (\$10.00).

B. The following monthly service rates are adopted:

1. First outlet TV or radio, Seven Dollars (\$7.00);
2. Extra outlets TV or radio, One Dollar and fifty-cents (\$1.50);
3. Pay TV, Eight Dollars and ninety-five cents (\$8.95); and
4. Mini-Pay, Four Dollars and ninety-five cents (\$4.95).

C. The following commercial rates are adopted:

Motels or apartments on a bulk billing contract ten (10) units or more, Three Dollars and ninety-five cents (\$3.95).

D. The following converter charge is adopted:

Purchase, cost Twenty-five Dollars (\$25.00), (estimate).

E. The rates set forth in the above schedule shall be subject to adjustment by the grantee based on extension and improvements in the type and quality of service offered. Grantee may increase the above rates by filing with the city council a proposed rate schedule provided increases shall not become effective if the city council disapproves the rates proposed within sixty (60) days after filing of same. (Ord. No. 12/3/79)

#### SECTION 19 PROPOSED CHANNEL CARRIAGE AND PROGRAMMING.

We plan to offer a TWO-TIER Service. No converter is required for Tier-One. Tier-Two subscribers will be provided a converter at operator's cost. There are many advantages to this approach, including the following:

1. Lower cost to install service;
2. Only subscribers desiring a converter will have one; and
3. In some cases one converter will serve a multi-TV set household.

Channel Number	Program Alternative			
2.	1.	NBC	Tulsa	KTEW
3.	2.	Independent	Atlanta 17	WTBS
		Considered the Number 1 Independent "Superstation" in America. Its program format is generous with movies (Library of two thousand seven hundred (2,700) titles and up to forty (40) showings per week); Sports (carries the games of four (4) major sports); Family Programs (it has the pick of the best); and it operates twenty-four (24) hours a day;		
4.	3.	Independent	Chicago 9	WGN
		Rated the Number 2 Independent "Superstation" in America. The programming is heavily saturated with movies, sports, and syndicated family shows.		
5.	4.	HBO		Pay Television Package
		Recent surveys indicated that HBO: is now the leading pay TV package. HBO's combination of first run movies, sports, and special events is the best currently available.		
6.	5.	CBS	Tulsa 6	KOTV
7.	6.	Christian Broadcasting Network		CBN
		Religious programming that runs twenty-four (24) hours per day with the lead show being the "700 Club" which utilizes a "Variety/Talk Show", format.		
8.	7.	ABC	Tulsa 8	KTUL
9.	8.	Madison Square Garden		
		Live sports from the greatest name in sports, Madison Square Garden. Presentations include NBA and College Basketball, NHL Hockey, Tennis, Track and Field, Boxing, Wrestling, and much more.		
9.	9.	Calliope		
		A weekly series presentation of ninety (90) minutes in length which incorporate several features of interest to children of all ages. Award winning movies, free of commercial interruptions, programmed by the "Learning Corporation of America" to help broaden childrens' horizons through creative entertainment.		
9.	10.	c-Span		
		Cable Satellite Public Affairs Network offering "Live, in Session" televised, "Gavel to Gavel" proceedings of the U.S. House of Representatives. Follow the events that shape the future of America.		
10.	11.	ED		Tulsa Educational
11.	12.	Program Guide		
		Weekly scheduling for pay and min-pay packages.		
11.	13.	Bristow Origination		
		Available to qualified parties.		

11.	14.	Bristow Weather		
		All the information you need to determine your outdoor activity for the day.		
12.	15.	Bristow School Bulletin Board		
		A dedicated marquee to highlight school activities such as sports, social, and various class functions.		
12.	16.	Bristow Community Bulletin Board		
		A fully accessible marquee to highlight community functions such as parades, fund raisers, socials, and town meetings.		
13.	17.	Nickelodeon		
		Thirteen (13) hours per day of hearty, wholesome, commercial free programming, that will delight parents, PTA's and children. Designed by distinguished.		
<b>ADDITIONAL PROGRAMMING -- TIER TWO CUSTOMERS</b>				
14.	18.	Modern Cable Programs		
		Entertainment with some commercial breaks. Programming features documentaries, sponsored films and sports. All programming hosted by noteworthy personalities.		
15.	19.	Entertainment Sports Programming Network		
		A variety of top quality sporting events including Davis Cup tennis, professional golf and NCAA games.		
16.	20.	Home Box Office 11 (Mini-Pay)		
		A cut down version of a full pay package designed for family viewing featuring "G" and "PG" rated movies presented without commercial interruption. These programs are scheduled to play at different times and days in succeeding weeks. No 'R' rated movies.		
17.	21.	Reserved for local universities.		

(Ord. No. 12/3/79)

**SECTION 20 MAPS, PLATS, AND REPORTS.**

The grantee shall, file with the city clerk true and accurate maps or plates of all existing and proposed installation. Grantee will, simultaneously with the acceptance of this non-exclusive franchise, file a map of the city showing the proposed construction schedule of grantee. (Ord. No. 12/3/79)

**SECTION 21 FORFEITURE OF NON-EXCLUSIVE FRANCHISE.**

A. In addition to all other rights and powers pertaining to the city by virtue of this non-exclusive franchise or otherwise, the city reserves the right to terminate and cancel this non-exclusive franchise and all rights and privileges of the grantee hereunder in the event that the grantee:

1. Violates any provision of this non-exclusive franchise or any rule, order, or determination of the city or council made pursuant to this non-exclusive franchise except where such violation, is without fault or through excusable neglect;

2. Becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt;

3. Attempts to evade any of the practices of any fraud or deceit upon the city; and

4. Attempts to dispose of any of the facilities or property of its GCC business to prevent the city from purchasing same, as provided for herein.

B. Such termination and cancellation shall be by ordinance duly adopted after sixty (60) days' notice to the grantee and shall in no way affect any of the city's rights under this non-exclusive franchise or any provision of law. In the event that such termination and cancellation depends upon a finding of fact, such finding of fact as made by the council or its representative shall be conclusive. Provided, however, that before this non-exclusive franchise may be terminated and cancelled under this section the grantee must be provided with an opportunity to be heard before the council. (Ord. No. 12/3/79)

#### SECTION 22 CITY'S RIGHT OF INTERVENTION.

The grantee agrees not to oppose intervention by the city in any suit or proceeding to which the grantee is a party. (Ord. No. 12/3/79)

#### SECTION 23 FURTHER AGREEMENT AND WAIVER BY GRANTEE.

The grantee agrees to abide by all provisions of this non-exclusive franchise, and further agrees that it will not at any future time set up as against the city or the council the claim that the provisions of this non-exclusive franchise are unreasonable, arbitrary or void. (Ord. No. 12/3/79)

#### SECTION 24 DURATION AND ACCEPTANCE OF NON-EXCLUSIVE FRANCHISE.

A. This non-exclusive franchise and the right, privileges, and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of fifteen (15) years, provided that within thirty (30) days after the date of the passage of this ordinance the grantee shall file with the city clerk its unconditional acceptance of this non-exclusive franchise and promise to comply with and abide by all its provisions, terms, and conditions. Such acceptance and promise shall be in writing duly executed and sworn to by or on behalf of the grantee before a notary public or other officer authorized by law to administer oaths.

B. Should the grantee fail to comply with Subsection A above, it shall acquire no rights, privileges, or authority under this non-exclusive franchise whatsoever. (Ord. No. 12/3/79)

#### SECTION 25 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 council with regard to location, height, type and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall be vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the council determines that the public convenience would be enhanced thereby.

B. Where poles or other wire-holding structures already exist for use in serving the city are available for use by the grantee, but it does not make arrangements for such use, the council 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 the city or a public utility serving the city desires to make use of the poles or other wire-holding structures of the grantee but agreement therefor with the grantee cannot be reached, the council may require grantee to permit such use for such consideration 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. (Ord. No. 12/3/79)

#### SECTION 26 PUBLICATION COSTS.

The grantee shall assume the cost of publication of this ordinance as such publication is required by law and such is payable upon the grantee's filing of acceptance of this non-exclusive franchise. (Ord. No. 12/3/79)

#### SECTION 27 ELECTION.

It is understood by the grantee that in order for grantee to receive a license or franchise herein, that same must be placed before the people of the city and voted on; in this connection grantee agrees to assume and be responsible for payment of the cost of the election, provided, however, that no other cable TV system is selected by the people of the city. (Ord. No.12/3/79)

#### SECTION 28 COMMUNITY SERVICES.

GCC System will provide the following services in its system in Bristow:

1. Service I.

a. A Community Bulletin Board Channel. This service is provided remotely by the use of a keyboard located at a central facility such as city hall, or other mutually acceptable location. An electronic print-out of transmitted information appears on a channel of the cable system. This information may be inserted by local newspapers, schools, city hall, police department or public service groups;

b. System subscribers can quickly apprise themselves of interesting and important happenings as the information reaches the community Bulletin Board Center. The information is continually cycled on the designated channel of the subscribers TV set; or

c. This information equipment and access channel will be made available on a twenty-four (24) hour basis, free of charge, for any community approved use;

2. Service II.

A local Weather Service. This will be a continuous monitoring of local weather conditions. This information will be displayed on a twenty-four (24) hour basis on the subscriber's TV set.

3. Service III.

Emergency Alert System. This system will allow the police department or some other acceptable organization such as the civil defense organization to interrupt all TV channels on the cable system and make an audio announcement of emergency warnings or important message to all cable subscribers.

4. Service IV.

a. GCC System will make available for use in Bristow mobile video and audio equipment for use in producing local programming for use on the Cable TV system;

b. GCC System will provide this service on or before the subscriber count reaches one thousand (1,000);

c. GCC System will provide a studio and equipment to be used by the community to produce locally originated programming; or

d. GCC System will provide this service on or before the subscriber count reaches two thousand (2,000);

5. Service V.

GCC System will maintain an office in the City of Bristow which shall serve the subscribers and shall have a cable TV technician on duty twenty-four (24) hours a day. (Ord. No. 12/3/79)

## APPENDIX 4

### BRISTOW MUNICIPAL AUTHORITY

#### Sections:

Section 1 Trust created.

Section 2 Emergency.

#### SECTION 1 TRUST CREATED.

The trust indenture by and between Bill Shibley, as trustor, and Bill Shibley, Jim Aston, John Cherry, E. O. Turner, Mancel Murphy, Mary Cecil, Bob Thompson, Grady Martin and Grady Arthurs, as trustees, dated as of August 17, 1970, creating the Bristow Municipal Authority, a copy of which is on file in the office of the city clerk, wherein the City of Bristow is declared to be the beneficiary of the trust, be and the same is hereby approved and the City of Bristow accepts the trust as beneficiary thereof. (Ord. No. 26, 8/17/70)

#### SECTION 2 EMERGENCY.

By reason of its being extremely advantageous to the city to accept the term of the trust, and by reason of the city's need of the facilities to be acquired, constructed and equipped by the Bristow Municipal Authority, it is deemed and hereby declared necessary for the preservation of the public health, peace and safety that the trust be accepted and to that end that this ordinance shall become operative immediately; wherefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately from and after its passage and approval. (Ord. No. 26, 8/17/70)

## APPENDIX 5

### PROVISIONS OF SELECTED STATE STATUTES

#### APPLICABLE TO THE CITY

(FROM TITLE 11 OF THE OKLAHOMA STATUTES)

#### Article:

8 Officers--General Provisions

13 Municipal Charters

14 Municipal Ordinances

16 Municipal Elections

17 Municipal Finances

22 General Powers of Municipalities

27 Courts

#### STATE LAWS

## APPENDIX

### PROVISIONS OF SELECTED STATE STATUTES APPLICABLE TO THE CITY (FROM TITLE 11 OF THE OKLAHOMA STATUTES, CITIES AND TOWNS)

#### Article:

- 8 Officers--General Provisions
- 13 Municipal Charters
- 14 Municipal Ordinances
- 16 Municipal Elections
- 17 Municipal Finances
- 22 General Powers of Municipalities
- 27 Courts

## ARTICLE VIII

### OFFICERS--GENERAL PROVISIONS

#### Section:

- 8-101 Qualifications for Elected Office
- 8-102 Term of Office
- 8-103 Oath of Office
- 8-104 Who May Administer Oaths
- 8-105 Certain Officers to Give Bond
- 8-106 Nepotism--Dual Office Holding
- 8-107 Removal of Officers
- 8-108 Absence From Governing Body Meetings
- 8-109 Vacancies in Office
- 8-110 Method of City Official Becoming Candidate for County or State Office
- 8-111 Abstinance in Voting in Certain Meetings
- 8-112 Resignation of Municipal Officer
- 8-113 Certain Officers and Employees Prohibited from Conducting Certain Business with Municipality--  
Violations

## ARTICLE VIII

### OFFICERS--GENERAL PROVISIONS

#### SECTION 8-101. QUALIFICATIONS FOR ELECTED OFFICE

A municipal elected official shall be a resident and a registered voter of the municipality in which he serves, and all councilmembers or trustees from wards shall be actual residents of their respective wards. If an elected official ceases to be a resident of the municipality, he shall thereupon cease to be an elected official of that municipality.

**SECTION 8-102. TERM OF OFFICE**

Unless otherwise provided for by law, the term of office of an elected municipal official shall be four (4) years. The term of office of an elected official shall begin at 12:00 noon on the second Monday following the general municipal election, and such official shall serve until his successor is elected and qualified. 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 compliance with the provisions of Sections 16-101 through 16-213 of this Title. (Amended 11/1/84)

**SECTION 8-103. OATH OF OFFICE**

Any officer, elected or appointed, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the Oklahoma Constitution. The oath or affirmation shall be filed in the office of the municipal clerk.

**SECTION 8-104. WHO MAY ADMINISTER OATHS**

All officers authorized by state law, the mayor, the municipal clerk, the city manager, the municipal judge or judges and such other officers as the municipal governing body may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the municipality.

**SECTION 8-105. CERTAIN OFFICERS TO GIVE BOND**

The municipal governing body shall require the municipal treasurer, and any other officers and employees as the governing body may designate by ordinance, to give bond for the faithful performance of his duties within ten (10) days after his election or appointment, in such amount and form as the governing body shall prescribe. The municipality shall pay the premiums on such bonds.

**SECTION 8-106. NEPOTISM--DUAL OFFICE HOLDING**

No elected or appointed official or other authority of the municipal government shall appoint or elect any person related by affinity or consanguinity within the third degree to any governing body member or to himself or, in the case of a plural authority, to any one of its members to any office or position of profit in the municipal government. The provisions of this section shall not prohibit an officer or employee already in the service of the municipality from continuing in such service or from promotion therein. A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the governing body shall not receive compensation for service in any municipal office or position other than his elected office. (Amended 11/1/84)

**SECTION 8-107. REMOVAL OF OFFICERS**

A municipal elected official may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby.

**SECTION 8-108. ABSENCE FROM GOVERNING BODY MEETINGS**

Whenever a member of the municipal governing body is absent from more than one-half of all meetings of the governing body, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office.

#### SECTION 8-109. VACANCIES IN OFFICE

A. 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, or the next biennial town meeting if the municipality is subject to the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election or biennial town meeting 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 or a special town meeting 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 or within one hundred twenty (120) days prior to the next biennial town meeting. If a vacancy is not filled by the special election or at a special town meeting, it shall be filled by appointment as provided for in this subsection.

B. If a majority of the offices of a governing body are become vacant more than sixty (60) days before the beginning of a regular filing period for general municipal elections or more than sixty (60) days before the biennial town meeting, the remaining members of the governing body shall call for a special election or a special town meeting, if the municipality is subject to the Oklahoma Town Meeting Act, to be held as soon as possible in the municipality for the purpose of filling all vacant offices for the remainder of their unexpired terms if the election or town meeting can be held more than sixty (60) days before the beginning of the filing period for the general election or more than sixty (60) days before the next biennial town meeting. The remaining members of the governing body may pay claims in accordance with Section 17-102 of this title and, when necessary to avoid financial loss or injury to a person or property, may take any action otherwise authorized for the governing body except the enactment of an ordinance.

C. If all the offices of the governing body become vacant, the municipal clerk or acting municipal clerk shall be the interim mayor until a member of the governing body is elected and qualified. If there is no municipal clerk or acting municipal clerk in office, the municipal treasurer shall serve as interim mayor and acting municipal clerk. If there is no municipal officer in office, the Governor may appoint a registered voter of the municipality as interim mayor and acting municipal clerk. The appointed interim mayor shall give bond for the faithful performance of his duties within ten (10) days after his appointment. The municipality shall pay the premium on the bond.

D. The interim mayor shall exercise the authority of the governing body for only those purposes set out in this section.

1. Within five (5) days of the occurrence of the last vacancy, the interim mayor shall call a special election or a special town meeting, if the municipality is subject to the provisions of the Oklahoma Town Meeting Act, for the purpose of filling the unexpired terms in accordance with subsection B of this section. If all of the offices of the governing body become vacant sixty (60) days or less before the beginning of a regular filing period for general elections or sixty (60) days or less before the next biennial town meeting, the interim mayor shall call the regular general election or the biennial town meeting, whichever is appropriate. If the interim mayor fails or refuses to call an election or town meeting, whichever is appropriate, the board of county commissioners of the county in which the municipality is located shall call the election or town meeting. The county sheriff, or his deputy, shall attend any town meeting called by the board of county commissioners and, if the interim mayor

fails to conduct the meeting, shall moderate the meeting. The interim mayor or the sheriff or deputy who is moderating the meeting is authorized to appoint a registered voter of the municipality to take the minutes of the meeting. If the vacancies are not filled by the election or town meeting called for the purpose, the Governor may appoint registered voters of the municipality to fill the vacancies without regard to wards for the balance of the unexpired term.

2. The interim mayor may pay claims in accordance with subsection C of Section 17-102 of this title. The interim mayor shall submit a list of such payments to the governing body of the municipality no later than the second regular meeting after the vacancies are filled.

E. 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. (Amended 1989)

#### SECTION 8-110. METHOD OF CITY OFFICIAL BECOMING CANDIDATE FOR COUNTY OR STATE OFFICE

Any member of a city governing body, the city clerk, and the city marshal, may not, unless he resigns from the office held by him, be eligible to become a candidate for a county or state office. This provision shall not apply to any municipality governed by charter, nor to incorporated towns.

#### SECTION 8-111. ABSTINENCE IN VOTING IN CERTAIN MEETINGS

If a member of the governing body of a municipality abstains from voting, he shall be deemed to have cast a negative vote, which shall be recorded in the minutes. (Added, 11/1/84)

#### SECTION 8-112. RESIGNATION OF MUNICIPAL OFFICER

A municipal officer may resign by submitting his written resignation to the governing body of the municipality, to the remaining members of the municipal governing body if some positions are vacant, to the interim mayor or, if all positions of the governing body will become vacant upon the resignation, to the board of county commissioners of the county in which the municipality is located. Delivery of the written resignation to the governing body during a public meeting of such body or to the municipal clerk by mail or personal delivery during regular office hours shall constitute submission of the resignation to the municipal governing body. Delivery of the written resignation to the board of county commissioners during a public meeting of the commissioners or to the county clerk by mail or hand delivery during regular office hours shall constitute submission of the resignation to the board of county commissioners. A resignation submitted by a municipal officer may be withdrawn in writing at any time prior to the effective date stated in the resignation. If no effective date is stated, the resignation shall be effective immediately. Acceptance by the governing body shall not be required for the resignation to be effective. (Amended 1988)

#### SECTION 8-113. CERTAIN OFFICERS AND EMPLOYEES PROHIBITED FROM CONDUCTING CERTAIN BUSINESS WITH MUNICIPALITY--VIOLATIONS

A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which said officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the municipality;
2. Contracting with the municipality; or
3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. 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. Provided that any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of such person, or any business in which such 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 such surplus property is offered for sale to the public after notice of the sale is published.

C. 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 such interest held by a blind trust.

D. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. 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 said transaction. (Amended 3/5/85)

## ARTICLE XIII

### MUNICIPAL CHARTERS

#### Section:

- 13-101 Municipalities May Adopt Charter
- 13-102 Procedure for Adopting Charters--Petition or Governing Body Resolution
- 13-103 Election on Question and Board of Freeholders
- 13-104 Canvassing Returns--Certification of Results
- 13-105 Preparation of Charter
- 13-106 Notice of Charter Election
- 13-107 Charter Election--Certification of Results--Approval by Governor
- 13-108 Deposit of Copies for Record--Judicial Notice
- 13-109 Charter Controls over Conflicting Laws
- 13-110 Payment of Expenses for Framing and Adopting Charter
- 13-111 Charter Amendments--Procedure
- 13-112 Revocation or Abolishment of Charter--Adopting Statutory Form--Procedure
- 13-113 Charter Revocation--Canvassing Returns--Proclamation of Governor--Election of Officers
- 13-114 Special Charter Provisions Relating to Abandonment of Municipal Charters

## ARTICLE XIII

### MUNICIPAL CHARTERS

#### SECTION 13-101. MUNICIPALITIES MAY ADOPT CHARTER

Any city or town containing a population of two thousand (2,000) inhabitants or more, as shown by the latest federal census or other census recognized by the laws of Oklahoma, may frame a charter for its own government.

**SECTION 13-102. PROCEDURE FOR ADOPTING CHARTERS--PETITION OR GOVERNING BODY RESOLUTION**

The mayor of an incorporated municipality shall issue an order calling for an election on the question of whether or not the municipality shall frame a charter for its own government and elect a board of freeholders to prepare the charter when:

1. A petition signed by not less than twenty-five percent (25%) of the registered voters of the municipality, as shown by the preceding general election, is filed with the governing body; or
2. The governing body, by resolution, so directs.

The order calling for the election shall be issued within ten (10) days after a petition has been filed with the governing body or within ten (10) days after the date of the governing body resolution.

**SECTION 13-103. ELECTION ON QUESTION AND BOARD OF FREEHOLDERS**

The election on the question and board of freeholders shall be held at a general or special election to be held in the municipality within thirty (30) days after the order calling for the election. Notice of the election shall be given in the manner required for municipal elections. The question submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the \_\_\_\_\_ (City or Town) of \_\_\_\_\_ frame a charter for its own government?  
 Yes.  
 No.

The board of freeholders, which is to be voted on in the same election, shall consist of two qualified electors from each ward in the municipality. The freeholders shall be elected by the registered voters of the respective wards. The two candidates receiving the highest number of votes in each ward shall be elected as members of the board of freeholders. The ballot shall be substantially in the following form:

For Freeholder from Ward One  
(Vote for Two)

\_\_\_\_\_ Name of candidate for freeholder.

\_\_\_\_\_ Name of candidate for freeholder.

**SECTION 13-104. CANVASSING RETURNS--CERTIFICATION OF RESULTS**

The county election board shall canvass the returns and the secretary of the board shall, within five (5) days after the canvass of the returns of the election, certify the results to the municipal governing body. If a majority of the votes cast on the question are in favor of framing a charter for the municipality, the board shall tabulate the votes on the election of freeholders and declare the results in the certification to the governing body.

**SECTION 13-105. PREPARATION OF CHARTER**

The board of freeholders shall prepare a charter for the municipality within ninety (90) days after their election. The charter shall be consistent with and subject to the Oklahoma Constitution and shall not be in conflict

with the Constitution and laws relating to the exercise of initiative and referendum. The proposed charter shall be signed in duplicate by at least a majority of the freeholders. One copy of the proposed charter shall be given to the mayor and the other shall be given to the county clerk of the county in which the situs of the municipality is located.

#### SECTION 13-106. NOTICE OF CHARTER ELECTION

Within twenty (20) days after receipt of the proposed charter from the board of freeholders, the governing body shall publish the proposed charter and an announcement of the date for the charter election in a newspaper of general circulation within the municipality for at least twenty-one (21) days, if in a daily paper, or in three (3) consecutive issues, if in a weekly paper. The date for the charter election shall not be less than twenty (20) days nor more than thirty (30) days after the last publication.

#### SECTION 13-107. CHARTER ELECTION--CERTIFICATION OF RESULTS--APPROVAL BY GOVERNOR

The question of whether or not the municipality shall adopt the proposed charter shall be submitted to the registered voters of the municipality at a general or special election. If a majority of the votes cast, as certified by the secretary of the county election board, are in favor of adopting the charter, the charter shall then be certified by the mayor of the municipality and authenticated by the seal of the municipality. The submission to and approval by the registered voters shall be set forth on the charter. The charter shall then be submitted to the Governor for his approval, and the Governor shall approve the charter if it is not in conflict with the Constitution and laws of Oklahoma. Upon his approval, the charter shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it.

#### SECTION 13-108. DEPOSIT OF COPIES FOR RECORD--JUDICIAL NOTICE

After the approval of the charter by the Governor, duplicate copies shall be made and one shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the county clerk of the county in which the situs of the municipality is located, shall be deposited in the archives of the municipality. Thereafter the charter shall be judicially noticed in all court proceedings.

#### SECTION 13-109. CHARTER CONTROLS OVER CONFLICTING LAWS

Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict.

#### SECTION 13-110. PAYMENT OF EXPENSES FOR FRAMING AND ADOPTING CHARTER

All charter election expenses shall be paid by the municipality. The municipality may provide for the payment of the expenses incurred by the board of freeholders in the framing of the charter.

#### SECTION 13-111. CHARTER AMENDMENTS--PROCEDURE

Amendments to a municipal charter may be proposed by:

1. An initiative petition, signed by a number of the registered voters residing in the municipality equal to at least twenty-five percent (25%) of the total number of votes cast at the preceding general election. Charter amendments proposed by initiative petition shall be governed in all respects by the provisions of Sections 15-101 through 15-110 of this title; or

2. A resolution of the municipal governing body. Notice of charter amendments proposed by resolution and the election on them shall be in the same manner provided for adoption of municipal charters as set forth in Section 13-106 and 13-107 of this title. If a majority of the votes cast in the election on the charter amendments, as certified by the secretary of the county election board, are in favor of adopting the proposed amendments to the charter, the charter shall be so amended, certified and authenticated by the mayor, and submitted to the Governor for his approval. The Governor shall approve the charter amendments if they are not in conflict with the Constitution and laws of Oklahoma. Upon his approval, the charter as amended shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it. The charter amendments shall be filed and recorded in the same manner provided for filing of municipal charters.

**SECTION 13-112. REVOCATION OR ABOLISHMENT OF CHARTER--ADOPTING STATUTORY FORM--PROCEDURE**

A proposal to revoke or abolish the charter of a municipality shall be made in the same manner provided for charter amendments and shall include the proposed statutory form of municipal government to be adopted when the charter is revoked, unless the proposal includes the adoption of a new charter in lieu of the existing charter. The question to be submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the (City or Town) of \_\_\_\_\_ revoke the charter under which it is now operating, and adopt and be governed under the statutory \_\_\_\_\_ (name of proposed statutory form) form of municipal government as provided by laws of Oklahoma?

- Yes.
- No.

**SECTION 13-113. CHARTER REVOCATION--CANVASSING RETURNS--PROCLAMATION OF GOVERNOR--ELECTION OF OFFICERS**

The secretary of the county election board shall, within five (5) days after the canvass of the returns of the election, certify to the Governor the results of the vote on the question. If a majority of the votes cast are in favor of revoking the charter, the Governor, within twenty (20) days after receiving the certification, shall issue a proclamation stating that the municipality has revoked its charter and adopted the statutory form of municipal government specified in the question. The proclamation of the Governor shall also direct the governing body of the municipality to divide the municipality into the number of wards required and to hold primary and general elections in the manner provided by the statutory form of government which has been adopted. From the date of the Governor's proclamation, the charter of the municipality shall be revoked, and the municipality shall be governed under the laws relating to the statutory form of government which the municipality has adopted.

**SECTION 13-114. SPECIAL CHARTER PROVISIONS RELATING TO ABANDONMENT OF MUNICIPAL CHARTERS**

Where a municipality has adopted a charter containing a special provision to the effect that at the expiration of a specified period after the adoption of the charter the governing body may submit to the registered voters of the municipality the question of whether or not the charter shall be abandoned and the municipality governed under a statutory form of government, and the specified time has expired and the governing body has failed to submit the question, then the question shall be submitted to the registered voters at the next election which may be held in the municipality. The secretary of the county election board shall submit the question substantially in the lan-

guage of the charter provision. If a majority of the votes cast, as certified by the secretary of the county election board, are in favor of abandoning the charter and adopting a statutory form, the results of the election shall be certified to the Governor in the manner provided for revocation of charters.

## ARTICLE XIV

### MUNICIPAL ORDINANCES

#### Section:

14-101 Municipal Ordinances--Authority

14-101.1 Rent Control--Prohibition

14-102 Ordinances--Procedure Governing Passage

14-103 Effective Date of Municipal Ordinances--Emergency Measures

14-104 Style of Ordinances--Title and Subject--Enacting Clause

14-105 Ordinance Book--Entries

14-106 Publication of Ordinances

14-107 Publication by Title and Condensed Summary of Certain Codes and Ordinances; Adoption and Enforcement of Certain Building Codes

14-108 Codification of Municipal Ordinances

14-109 Mandatory Compilation of Penal Ordinances

14-110 Notice and Filing of Penal Ordinance Compilations--Judicial Notice

14-111 Enforcement and Penalties for Violation of Municipal Ordinances

14-112 Cancellation or Denial of Driving Privileges for Noncompliance with Municipal Court Sentence

14-113 Liability for Cost of Medical Care to Defendant in Custody of Municipal Jail

## ARTICLE XIV

### MUNICIPAL ORDINANCES

#### SECTION 14-101. MUNICIPAL ORDINANCES--AUTHORITY

The municipal governing body may enact ordinances, rules and regulations not inconsistent with the Constitution and laws of Oklahoma for any purpose mentioned in Title 11 of the Oklahoma Statutes or for carrying out their municipal functions. Municipal ordinances, rules or regulations may be repealed, altered or amended as the governing body ordains.

#### SECTION 14-101.1 RENT CONTROL--PROHIBITION

A. No municipal governing body may enact, maintain, or enforce any ordinance or resolution which regulates the amount of rent to be charged for privately owned, single-family or multiple unit residential or commercial rental property.

B. This section shall not be construed to prohibit any municipality or any authority created by a municipality for that purpose from:

1. Regulating in any way property belonging to that municipality or authority;

2. Entering into agreements with private persons which regulate the amount of rent charged for subsidized rental properties; or
3. Enacting ordinances or resolutions restricting rent for properties assisted with federal Community Development Block Grant Funds. (Added 1988)

**SECTION 14-102. ORDINANCES--PROCEDURE GOVERNING PASSAGE**

All proposed ordinances of a municipality shall be considered at a public meeting of the council or board of trustees. A vote of a majority of all the members of the council or board of trustees shall be required for the final passage of an ordinance.

**SECTION 14-103. EFFECTIVE DATE OF MUNICIPAL ORDINANCES--EMERGENCY MEASURES**

Every ordinance except an emergency ordinance shall go into effect thirty (30) days after its final passage unless it specifies a later date. An emergency measure necessary for the immediate preservation of peace, health, or safety shall go into effect upon its final passage unless it specifies a later date. Such an emergency measure must state in a separate section the reasons why it is necessary that the measure become effective immediately. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least three-fourths (3/4) of all the members of the governing body of the municipality. (Amended 11/1/84)

**SECTION 14-104. STYLE OF ORDINANCES--TITLE AND SUBJECT--ENACTING CLAUSE**

An ordinance may contain only one subject and the subject shall be expressed in its title. The enacting clause of all ordinances passed by a municipal governing body shall be:

1. "Be it ordained by the Council of the City of \_\_\_\_\_", for city ordinances; or
2. "Be it ordained by the Board of Trustees of the Town of \_\_\_\_\_", for town ordinances.

The enacting clause of ordinances proposed by the voters under their power of initiative shall be "Be it ordained by the People of the \_\_\_\_\_ (City or Town) of \_\_\_\_\_".

**SECTION 14-105. ORDINANCE BOOK--ENTRIES**

Every ordinance enacted by a municipal governing body shall be entered in an ordinance book immediately after its passage. The entry shall contain the text of the ordinance and shall state the date of its passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which the ordinance was published, and the date of the publication. Compilations or codes of municipal law or regulations need not be enrolled in full in the book of ordinances, but the ordinance adopting by reference or enacting such compilation or code shall be entered and a copy of the compilation or code shall be filed and kept in the office of the municipal clerk. (Amended 11/1/84)

**SECTION 14-106. PUBLICATION OF ORDINANCES**

No ordinance having any subject other than the appropriation of monies shall be in force unless published or posted within fifteen (15) days after its passage. Every municipal ordinance shall be published at least once in full, except as provided in Section 14-107 of this title.

When publishing the ordinance, the publisher or managing officer of the newspaper shall prefix to the ordinance a line in brackets stating the date of publication as "Published \_\_\_\_\_", giving the month, day, and year of publication. (Amended 11/1/84)

**SECTION 14-107. PUBLICATION BY TITLE AND CONDENSED SUMMARY OF CERTAIN CODES AND ORDINANCES; ADOPTION AND ENFORCEMENT OF CERTAIN BUILDING CODES**

A. If a municipal governing body enacts or adopts by reference ordinances which are compilations or codes of law or regulations relating to traffic, building, plumbing, electrical installations, fire prevention, inflammable liquids, milk and milk products, protection of the public health, or other matters which the municipality has the power to regulate, such ordinances are not required to be published in full. Legal publication of these ordinances may be by publishing the title and a condensed gist or summary of their contents in the manner provided by Section 14-106 of this title. At least one copy of these ordinances shall be kept in the office of the municipal clerk for public use, inspection, and examination. The municipal clerk shall keep copies of the ordinances, code, or compilations for distribution or sale at a reasonable price.

B. A municipality which adopts building standards shall adopt and enforce one of the following codes:

1. The BOCA Basic Building Code of the Building Officials and Code Administrators International, Incorporated; or
2. The Uniform Building Code of the International Conference of Building Officials; or
3. The Southern Standard Building Code of the Southern Building Code Congress, International, Incorporated; or
4. The Code for Energy Conservation in New Building Construction prepared by the National Conference of States an Building Codes and Standards, Inc. (NCSBCS); or
5. Any other code which the governing body deems desirable to promote safety, energy efficiency, health, and welfare within the municipality.

C. Ordinances which are passed by the governing body with an emergency clause attached are not required to be published in full, but may be published by title only in the manner provided by Section 14-106 of this title. (Amended, effective 11/1/84)

#### SECTION 14-108. CODIFICATION OF MUNICIPAL ORDINANCES

A. The governing body of a municipality may, from time to time, authorize a codification of its ordinances. Such a code may be kept up to date by use of a loose-leaf system and process of amendment. In a code of municipal ordinances, the title, enacting clauses and emergency sections may be omitted and temporary and special ordinances and parts of ordinances may also be omitted. Permanent and general ordinances and parts of ordinances which are to be repealed by the code shall be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged, renumbered, and reorganized into some systematic arrangement. The governing body may publish in connection with the code new matter, provisions of state law relating to the municipality, a history of the municipality, the history of the municipal government, the names of officials and other informational matter as the governing body may decide. The book or pamphlet containing the code may also contain an index and forms and instructions as the governing body may decide.

B. At least three copies of the code shall be kept in the office of the municipal clerk for public use, inspection and examination. The municipal clerk shall keep copies of the code for distribution or sale at a reasonable price.

C. Notice of the publication of the code shall be in the manner provided for publication by title of certain codes and ordinances in subsection A of Section 14-107 of this title.

#### SECTION 14-109. MANDATORY COMPILATION OF PENAL ORDINANCES

The penal ordinances of every municipality shall be compiled and published in a permanent form, either printed or typed, periodically, but not less than once each ten (10) years. Each municipality shall also publish biennial supplements to the permanent volume of compiled penal ordinances. No municipal ordinance shall be enforced if it is not reflected in such a permanent volume or supplement if the ordinance was adopted before the latest compilation or supplement. A codification of municipal ordinances which includes all penal ordinances is

sufficient for complying with this compilation requirement if the code is issued as a permanent volume with biennial supplements and if the procedures for filing and notice, as outlined in Section 14-110 of this title, have been complied with. Provided, further, the ten-year codification requirement shall be satisfied if the code complies with the compilation requirement and the biennial supplements are made a part of the permanent volume which are maintained in permanent form either bound or in a loose-leaf form. (Amended 1989)

#### SECTION 14-110. NOTICE AND FILING OF PENAL ORDINANCE COMPILATIONS--JUDICIAL NOTICE

When a municipality has compiled and published its permanent volume or biennial supplement of penal ordinances, the governing body of the municipality shall adopt a resolution notifying the public of the publication. A copy of the resolution shall be filed in the office of the county clerk in each county in which the municipality is located. The county clerk shall assign the filed resolution a book and page number. At least one copy of the permanent volume and each biennial supplement shall be deposited free of cost by the municipality in the county law library of each county wherein the municipality is located, and receipt of same shall be duly noted in writing by the county librarian. A copy of the receipt may be filed with the county clerk who shall then assign a book and page number. The permanent volume or biennial supplement of compiled penal ordinances shall be available for purchase by the public at a reasonable price. Ordinances which have been compiled and filed in accordance with this section shall be judicially noticed in all court proceedings. Provided, a court may consider a book and page reference of the county clerk's filings as satisfactory proof of compliance so that judicial notice may be taken of an ordinance. (Amended 1989)

#### SECTION 14-111. ENFORCEMENT AND PENALTIES FOR VIOLATION OF MUNICIPAL ORDINANCES

A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by subsections B through D of this section, for any offense in violation of its ordinances, which shall be recoverable with costs of suit. The governing body may provide that 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 municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Five Dollars (\$5.00) per day for useful labor, until the fine or costs are satisfied.

B. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of Five Hundred Dollars (\$500.00) and costs or imprisonment not exceeding ninety (90) days or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony. Provided, that cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines of Two Hundred Dollars (\$200.00) and costs pursuant to the provisions of Section 27-126 of this title or imprisonment not exceeding thirty (30) days or both the fine and imprisonment, provided that municipalities having only a municipal court not of record shall not have authority to enact any ordinance making unlawful any act or omission declared by state statute to be punishable as a felony. A municipal ordinance may not impose a penalty, including fine and costs, greater than that established by statute for the same offense. Provided, that municipalities having a municipal court not of record may enact ordinance prescribing maximum fines of One Thousand

Dollars (\$1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges.

D. Municipalities having both municipal criminal courts of record and municipal courts not of record may enact ordinances, within the authority of this section, for both such courts.

E. No municipality may levy a fine of over Fifty Dollars (\$50.00) until it has compiled and published its penal ordinances as required in Sections 14-109 and 14-110 of this title. (Amended 1990)

#### SECTION 14-112 CANCELLATION OR DENIAL OF DRIVING PRIVILEGES FOR NONCOMPLIANCE WITH MUNICIPAL COURT SENTENCE

A. As used in this section:

1. "Department" means the Department of Public Safety;
2. "Notification form" means a form prescribed by the Department which contains a statement from the court that the person has failed to satisfy the sentence of the court. It shall include the name, date of birth, physical description, and the driver's license number, if any, of the person;
3. "Reinstatement form" means a form prescribed by the Department which contains a statement from the court that the person has satisfied the sentence of the court. It shall include sufficient information to identify the person to the Department;
4. "Sentence" means any order of the court to pay a fine, penalty assessment or costs or to carry out a term of community service or other remedial action.

B. When any person under the age of eighteen (18) years fails or refuses to satisfy a sentence of a municipal court, the court shall notify the Department. Upon receipt of the notification form from the court, the Department shall cancel or deny all driving privileges of the person without a hearing until the person satisfies the sentence of the court.

C. When the person fulfills the sentence of the court, the court or court clerk shall provide a reinstatement form to such person either directly or by first class mail, postage prepaid, at the last address given by the person to the court. The driving privileges of a person who furnishes a reinstatement form to the Department shall be granted or reinstated, if the person is otherwise eligible, in accordance with law. Upon such granting or reinstatement of driving privileges, the Department may remove any record of the denial or cancellation of driving privileges as provided for in this section from the file of the person and maintain an internal record of the denial or cancellation for fiscal or other purposes.

D. At the time of sentencing the person, the court may take custody of the driver's license of the person until the terms of the sentence are fulfilled. In such case, the court shall issue to the person a receipt for the license. Additionally, the court may notify the parents or other custodian of the person of the terms of the sentence or any notice to the Department. (Added 1990)

#### SECTION 14-113 LIABILITY FOR COST OF MEDICAL CARE TO DEFENDANT IN CUSTODY OF MUNICIPAL JAIL

When a defendant is in the custody of a municipal jail, the custodial municipality shall only be liable for the cost of medical care for conditions that are not preexisting prior to arrest and that arise due to acts or omissions of the municipality. Preexisting conditions are defined as those illnesses beginning or injuries sustained outside the custody of the municipal jail.

An inmate receiving medical care for a preexisting condition or a condition not caused by the acts or omissions of the municipality shall be liable for payment of the cost of care, including but not limited to, medication, medical treatment, and transportation costs, for or relating to the condition requiring treatment. (Added 1990)

## ARTICLE XVI

### MUNICIPAL ELECTIONS

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## ARTICLE XVI

### MUNICIPAL ELECTIONS

#### PART 1. GENERAL PROVISIONS

##### SECTION 16-101. NOTICE OF MUNICIPAL ELECTIONS

Notice of a general municipal election or a special election shall be given by publishing the resolution of the municipal governing body calling for the election. The resolution shall set forth:

1. The date or dates of the election; and
2. The offices to be filled or the questions to be voted upon at the election.

The resolution shall be published in a newspaper of general circulation in the municipality at least ten (10) days before the beginning of the filing period for a general municipal election, or at least ten (10) days before the date of a special election. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the resolution in at least five (5) public places in the municipality.

##### SECTION 16-102. PROVISIONS NOT APPLICABLE TO MUNICIPALITIES GOVERNED BY CHARTER

A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter; provided, that in any election such a municipality may, by indicating in its resolution calling the election, choose to follow any provision of state law governing elections conducted by a county election board when the municipality's charter or ordinances are silent on the matter addressed by such provision. In such instance, if the municipal election or any substantial portion thereof is not conducted by a county election board, the duties required of the county election board or its secretary shall be performed by the municipal authority designated by the municipal governing body and nothing herein shall be construed to require the county election board to perform any such duties. The residency requirements of Sections 16-109 and 16-110 of this title shall apply to all municipalities except to the extent that such residency requirements are governed by municipal charter.

B. The provisions of Sections 16-101 through 16-114 of this title shall not apply to any municipality subject to the provisions of the Oklahoma Town Meeting Act; provided, Section 16-103.1 of this title shall apply to such municipalities. (Amended 1988)

**SECTION 16-103. GENERAL MUNICIPAL ELECTIONS--WHEN HELD**

General municipal elections shall be held in cities and towns on the first Tuesday in April in each odd-numbered year.

**SECTION 16-103.1 WITHHOLDING CERTAIN MONIES FROM CITY OR TOWN THAT FAILS TO HOLD MUNICIPAL ELECTIONS**

No monies shall be distributed pursuant to Section 1104 Title 47 and Section 504 of Title 68 of the Oklahoma Statutes to any incorporated city or town which has failed to hold a general municipal election or a biennial town meeting as provided in Section 16-101 et seq. of this title or the Oklahoma Town Meeting Act, respectively, on the dates required by law for two consecutive general municipal elections or biennial town meetings. Such monies shall be remitted to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law. An incorporated city or town shall henceforth send the county treasurer of the county in which it is located and the chairman of the Oklahoma Tax Commission, or a person designated by the Oklahoma Tax Commission to receive service of process, a copy of the municipality's notice of a biennial town meeting or resolution calling for its regular municipal elections, whichever is appropriate. The copy of the resolution shall include a notation by the county election board showing that the resolution was received and the date it was received. (Amended 1988)

**SECTION 16-104. CONDUCT OF GENERAL MUNICIPAL ELECTIONS**

The laws applicable to general elections shall govern general municipal elections except as otherwise provided. Municipal elected officials, including those from wards as well as at large, shall be elected at large by the registered voters of the entire municipality.

**SECTION 16-105. WHAT CANDIDATE'S NAME MAY BE PLACED ON GENERAL ELECTION BALLOT**

No candidate's name shall be printed upon the official ballot for a general municipal election unless such candidate shall have been nominated by some political party at the primary election or unless his name is presented as an independent candidate as provided in Section 16-110 of this title.

**SECTION 16-105.1 ELECTIONS TO BE NONPARTISAN--PRIMARY ELECTIONS IN NONPARTISAN ELECTIONS ABOLISHED**

Municipal elections shall be nonpartisan and all candidates shall file as independent candidates unless, prior to the date for notifying the county election board of the call for the election, the municipality has in effect an ordinance providing for a partisan primary election consistent with Section 16-101 et seq. of Title 11 of the Oklahoma Statutes. No primary elections shall be held in a nonpartisan election. Any election proclamation or notice of election providing for a primary election shall be deemed to be amended by operation of this act to delete the call for a primary election unless a copy of the ordinance authorizing the primary election is attached to the election resolution filed with the county election board. If such a copy is not attached, each candidate shall appear on the ballot as an independent candidate without party or other designation. Provided, any municipality which is governed by a charter may provide otherwise by charter or ordinance.

**SECTION 16-106. UNOPPOSED CANDIDATES IN GENERAL ELECTION**

Any candidate who is unopposed for an office in a general municipal election shall be deemed elected and certified; and his name shall not appear on the general election ballot. If there is only one candidate for each of the offices which are to be filled at the election, and no questions are to be voted upon at the election, the general municipal election shall not be held.

**SECTION 16-107. PRIMARY ELECTIONS--WHEN HELD**

A primary election shall be held in cities and towns on the first Tuesday of March in each odd-numbered year, at which time the several political parties shall nominate candidates for offices which are to be elected at the upcoming general municipal election. (Amended eff. 10/19/81)

**SECTION 16-108. CONDUCT OF PRIMARY ELECTIONS**

The general laws relating to primary elections shall govern municipal primaries except as otherwise provided. Party candidates for municipal office, including those from wards as well as at large, shall be nominated at large by the registered voters of the respective parties of the entire municipality.

**SECTION 16-109. MANNER OF BECOMING A PARTY CANDIDATE--DECLARATION OF CANDIDACY**

To be eligible to become a candidate for a political party nomination in the municipality's primary election, a person must for at least six (6) months prior to filing a declaration of candidacy be a registered voter at an address within the municipality or in the ward if an office is from a ward. To become a party candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in February and no later than 5:00 p.m. on the next succeeding Wednesday. (Amended eff. 7/1/87)

**SECTION 16-110. INDEPENDENT CANDIDATES**

An independent candidate may have his name printed upon the general municipal election ballot as candidate for any office to be filled at the election. To become an independent candidate, a Declaration of Candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in February and no later than 5:00 p.m. on the next succeeding Wednesday. An independent candidate must also be a registered voter at an address within the municipality, or of the ward where the office is from a ward for at least six (6) months prior to filing a declaration of candidacy. Filing as an independent candidate in an election or voting for such candidate shall not affect one's party affiliation or regularity. (Amended eff. 10/19/81)

**SECTION 16-111. UNOPPOSED CANDIDATES IN PRIMARY ELECTION**

Any candidate who is unopposed for an office in a primary election shall be deemed nominated and so certified; and his name shall not appear on the primary election ballot. If there are unopposed candidates for each of the offices which are up for election, no primary election shall be held.

**SECTION 16-112. SPECIAL ELECTIONS--QUESTIONS WHICH MAY BE SUBMITTED**

When the municipal governing body shall deem it advisable, it may, by resolution or ordinance, authorize the mayor to call a special election for the purpose of submitting to the registered voters of the municipality the question of issuing municipal bonds, of granting any franchise, or for any other purpose authorized by law.

**SECTION 16-113. SPECIAL ELECTION BALLOT--PREPARATION AND ARRANGEMENT**

The ballot for a special election shall be prepared by the secretary of the county election board and shall set forth the proposition or propositions to be voted upon, and if more than one proposition is submitted, they shall be arranged so that each proposition may be voted upon separately.

**SECTION 16-114. CONDUCT OF SPECIAL ELECTIONS HELD FOR ELECTING OFFICERS**

When the office of a municipal elected official is to be filled at a special election, the resolution or order of the governing body calling the election shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday, not less than fifteen (15) days from the date of the resolution or order;
  2. The date of the Special Primary Election, if any, not less than thirty (30) days after the close of the filing period; and
  3. The date of the Special General Election, not less than thirty (30) days after the date of the Primary Election, if any, but if no primary election is called, not less than thirty (30) days after the close of the filing period.
- A copy of the resolution or order shall be filed with the secretary of the county election board. The election shall be conducted under the laws applicable to general municipal elections. (Amended eff. 7/1/87)

**PART 2. SPECIFIC PROVISIONS FOR STATUTORY CITIES AND TOWNS**

**SECTION 16-201. ALDERMANIC CITIES WITH ONE COUNCILMEMBER PER WARD--OFFICERS TO BE ELECTED--TERMS**

In a statutory aldermanic city with one (1) councilmember per ward, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from odd-numbered wards;
2. The mayor;
3. The clerk;
4. The marshal; and
5. The street commissioner.

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

1. Councilmembers from even-numbered wards; and
2. The treasurer.

If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office.

**SECTION 16-202. FIRST ELECTION HELD IN ALDERMANIC CITIES WITH ONE COUNCILMEMBER PER WARD**

At the first general municipal election held in the odd-numbered year following adoption of the aldermanic form of government with one (1) councilmember per ward, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from odd-numbered wards; the mayor; the clerk; the marshal; and the street commissioner.
2. Two-year terms: Councilmembers from even-numbered wards; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

**SECTION 16-203. ALDERMANIC CITIES WITH TWO COUNCILMEMBERS PER WARD--OFFICERS TO BE ELECTED--TERMS**

In a statutory aldermanic city with two councilmembers per ward, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. One (1) councilmember from each ward of the city;
2. The mayor;
3. The clerk;
4. The marshal; and
5. The street commissioner.

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

1. One councilmember from each ward of the city; and
2. The treasurer.

If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office.

**SECTION 16-204. FIRST ELECTION HELD IN ALDERMANIC CITIES WITH TWO COUNCILMEMBERS PER WARD**

At the first general municipal election held in the odd-numbered year following adoption of the aldermanic form of government with two councilmembers per ward, the officers to be elected and their terms are as follows:

1. Four-year terms: One councilmember from each ward of the city; the mayor; the clerk; the marshal; and the street commissioner.
2. Two-year terms: One councilmember from each ward of the city; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

**SECTION 16-205. TOWNS--OFFICERS TO BE ELECTED--TERMS**

In a statutory town, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Trustees from odd-numbered wards; and
2. The clerk.

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

1. Trustees from even-numbered wards; and
2. The treasurer.

If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office.

**SECTION 16-206. FIRST ELECTION HELD IN TOWN**

At the first general municipal election held in the odd-numbered year following adoption of the town board of trustees form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Trustees from odd-numbered wards; and the clerk.
2. Two-year terms: Trustees from even-numbered wards; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

**SECTION 16-207. ALDERMANIC CITIES AND TOWNS--APPOINTMENT OF CERTAIN OFFICIALS AFTER SUBMISSION TO VOTE**

A. The city council of any city may provide by ordinance for the submission to a vote of the registered voters of the city the question of providing for the appointment by the mayor, with the approval of the council, of the city marshal, the street commissioner, the city clerk, the city treasurer, or the city clerk-treasurer.

B. The board of trustees of any town may provide by ordinance for the submission to a vote of the registered voters of the town the question of providing for the appointment by the board of trustees of the town clerk, the town treasurer or the town clerk-treasurer.

C. The question of appointing each official shall be submitted separately on the ballot. The question providing for the appointment of the clerk or the treasurer may be consolidated into one question provided the two offices are to be consolidated into the office of clerk-treasurer. The question providing for the appointment of any official shall read substantially as follows:

Shall the (Marshal, Street Commissioner, Clerk, Treasurer, Clerk-Treasurer) be appointed by the (mayor, with the approval of the council, board of trustees)?

Yes.

No.

If a majority of the votes cast are in favor of appointment to the office, the appointive position shall take effect at the end of the current term of the office. In cities, the appointive officer shall be appointed and may be removed by the mayor, with the approval of the council. In towns, the appointment and removal shall be by a majority vote of all the members of the board of trustees.

**SECTION 16-208. COUNCIL-MANAGER CITIES--OFFICERS TO BE ELECTED--TERMS**

In a statutory council-manager city, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards One, Two and Five (if one).

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

1. Councilmembers from Wards Three, Four and Six (if one); and
2. The councilmember at large.

**SECTION 16-209. FIRST ELECTION HELD IN COUNCIL-MANAGER CITY**

At the first general municipal election held in the odd-numbered year following adoption of the statutory council-manager form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from Wards One, Two and Five (if one).
2. Two-year terms: Councilmembers from Wards Three, Four and Six (if one); and the councilmember at large.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

**SECTION 16-210. STRONG-MAYOR-COUNCIL CITIES--OFFICERS TO BE ELECTED--TERMS**

In a statutory strong-mayor-council city, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards One, Two and Five (if one).

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

1. Councilmembers from Wards Three, Four and Six (if one); and
2. The mayor.

**SECTION 16-211. FIRST ELECTION HELD IN STRONG-MAYOR-COUNCIL CITY**

At the first general municipal election held in the odd-numbered year following adoption of the statutory strong-mayor-council form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from Wards One, Two and Five (if one).
2. Two-year terms: Councilmembers from Wards Three, Four and Six (if one); and the mayor.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

**SECTION 16-212. COUNCIL-MANAGER AND STRONG-MAYOR-COUNCIL CITIES--FORM OF GENERAL MUNICIPAL ELECTION BALLOT**

The ballots for the general election in a statutory council-manager or statutory strong-mayor-council city shall be of the office block type, listing the names of independent candidates and party nominees for each office under the respective office without party designation or emblems as follows:

For Councilmember from Ward One  
(Vote for One)

\_\_\_\_\_Name of independent candidate or party nominee  
\_\_\_\_\_Name of independent candidate or party nominee

For Councilmember from Ward Two  
(Vote for One)

\_\_\_\_\_Name of independent candidate or party nominee  
\_\_\_\_\_Name of independent candidate or party nominee

**SECTION 16-213. TRANSITIONAL PROVISIONS FOR MUNICIPALITIES NOT IN CONFORMANCE WITH GENERAL ELECTION PROCEDURE**

A. If the term of an elected officer as set forth in the notice of the last election for the office will expire in an even-numbered year, a regular municipal election or town meeting, if the municipality is subject to the Oklahoma Town Meeting Act, shall be held in order to elect a successor. The term of the successor shall be either three (3) or five (5) years as necessary in order to comply with the provisions of Section 16-101 et seq. of this title. Thereafter, the term of said office shall be four (4) years. Any such election or town meeting held in an even-numbered year shall be conducted in the manner provided by law applicable to municipal elections or town meetings, whichever is appropriate.

B. If the term of an elected officer as set forth in the notice of the last election for the office will expire in an odd-numbered year, but the term of office does not coincide with the offices named in Section 16-201 et seq. of this title, a regular municipal election or town meeting shall be held in order to elect a successor. The term of

the successor shall be either two (2) or four (4) years as necessary in order to comply with the provisions of Section 16-101 et seq. of this title. Thereafter, the term of said office shall be four (4) years. (Amended 1988)

### PART 3. OKLAHOMA TOWN MEETING ACT

#### SECTION 16-301 SHORT TITLE

Sections 1 through 15 of this act shall be known and may be cited as the "Oklahoma Town Meeting Act". (Added, 1988)

#### SECTION 16-302 MUNICIPALITIES REQUIRED TO HOLD TOWN MEETINGS--ELECTION--ORDINANCE PROVIDING ALTERNATIVE PROCEDURE--REPEAL OF ORDINANCE

A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, sixty (60) days after the effective date of this act, all municipalities with fewer than one thousand (1,000) residents, according to the latest Federal Decennial Census, that are not governed by charter, shall elect officers and consider questions raised by initiative or referendum, pursuant to Section 15-101 et seq. of this title, at biennial town meetings or special town meetings of the voters of each municipality as provided in this act. Provided, that a municipality of fewer than one thousand (1,000) residents may at any time adopt an ordinance requiring that its officers shall be elected and initiative and referendum questions shall be decided only through elections conducted by the county election board pursuant to Section 16-101 et seq. of this title. Any municipality that passes an ordinance pursuant to this section shall upon adoption of the ordinance provide a copy of the ordinance to the county election board of the county in which the municipality is located.

B. If the ordinance is repealed, elections of the municipality shall be at a town meeting. The municipality shall provide a copy of the repealer to the county election board of the county in which the municipality is located. If a municipality with fewer than one thousand (1,000) residents fails to hold its regular municipal elections as required by law, the municipality shall be subject to the provisions of the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title; provided, further, that such municipality may adopt a resolution requiring that its elections be conducted by the county election board as provided in this section. (Amended 1989)

#### SECTION 16-303 TIME FOR TOWN MEETING--PURPOSE--SPECIAL TOWN MEETINGS

In municipalities subject to the provisions of Section 16-301 et seq. of this title, a biennial town meeting of the voters shall be held on the first Tuesday in April in each odd-numbered year for the purpose of electing municipal officers and considering questions raised by initiative or referendum pursuant to Section 15-101 et seq. of this title.

In addition to the election proceedings of said meeting the mayor or presiding officer may upon compliance with the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes and other provisions appropriate to the law, conduct regular business meetings or any other town business which would be in order and of interest to those citizens in attendance. Special town meetings for these purposes may be called at other times as provided in this act. (Amended 1990)

#### SECTION 16-304 NOTICE--PUBLICATION--POSTING--CONTENTS

Notice of the biennial town meeting or special town meeting for the purposes of electing officers and considering initiative or referendum questions shall be given by the governing body of the municipality in accordance with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. The notice shall be signed by a majority of the members of the governing body.

In addition to the requirements of the Oklahoma Open Meeting Act, notice of the biennial town meeting and any special town meeting shall be given by publishing notice of the meeting stating the date, time, place and agenda in a newspaper of general circulation in the municipality at least ten (10) days before the date of the meeting. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the notice and agenda in at least five (5) public places in the municipality. The notice shall list the offices to be filled, including the number of officers to be elected for four-year terms and the number of officers to be elected to fill unexpired terms, and the questions to be voted on, if any. (Added 1988)

#### SECTION 16-305 SPECIAL TOWN MEETING--MEETING CALLED BY BOARD OF COUNTY COMMISSIONERS

A. When a municipality fails to hold a biennial meeting on the first Tuesday of April in an odd-numbered year, the governing body shall immediately schedule and give notice of a special town meeting for the purpose of electing officers. Such notice shall be in accordance with Section 4 of this act.

B. If the governing body fails or refuses to hold a biennial or special town meeting for the purpose of electing officers, the board of county commissioners of the county in which the municipality is located shall call a town meeting for the purpose of electing officers. The sheriff, or his deputy, of the county in which the municipality is located shall attend any town meeting called by the board of county commissioners, and if the municipal officers fail to conduct the meeting, shall moderate the meeting. (Added 1988)

#### SECTION 16-306 PRESIDING OFFICER--RULES OF ORDER, CONDUCT AND DECORUM--MINUTES--BALLOTS--NOMINATION AND ELECTION OF OFFICIALS--FALSE AFFIDAVITS

A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, the mayor shall be the presiding officer of town meetings, shall decide questions of order and shall make public declaration of votes taken. Robert's Rules of Order shall govern all town meetings, except when such rules are inconsistent with Oklahoma law. The presiding officer may establish other rules of conduct and decorum for the meetings consistent with the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title. When the office of mayor is vacant or if the mayor is unable to attend the town meeting, one of the members of the governing body shall be elected by the remaining members of the governing body to preside over the town meeting.

B. The municipal clerk shall keep the minutes of the meeting. The minutes shall separately record the number of votes for and against each candidate and each question and shall record the total number of votes cast for each position. Paper ballots shall be preserved in the municipal clerk's office for a period of six (6) months following the town meeting at which said ballots were cast.

C. Officials elected at town meetings shall be nominated and elected at large by the registered voters present from nominations taken from the floor. Prior to accepting any nominations the presiding officer shall state the number of governing body offices to be elected for four-year terms and the number of governing body offices to be elected to fill unexpired terms, if any. There shall be separate nominations and balloting for each designated term. The nominee who receives a plurality of the votes cast for the office of the designated term shall be elected for that designated term. If more than one office is to be filled for a designated term, the voters shall vote for the designated number of offices to be filled and, the nominees receiving the largest pluralities shall be elected to those offices. All votes shall be taken by secret ballot; provided that if there is only one candidate for an office, he or she may be elected by acclamation upon proper motion. In case of a tie vote, the municipal clerk shall immediately select the electee or electees by lot as follows: The clerk shall write or print the names of the tied nominees on similar pieces of paper and place the papers in a container in view of the persons attending the town meeting. The clerk shall designate a person, who shall not be one of the nominees, to draw one name for each office to be filled and the nominee or nominees whose names are so drawn shall be deemed elected. All

other papers in the container shall then be exposed for examination. Only a registered voter who has been a registered voter at an address within the municipality for at least six (6) months prior to the date of the town meeting at which the elections are held shall be qualified for nomination for office. To be eligible for election, any person who is nominated for office must swear under oath that he or she has been a registered voter at an address within the municipality for the last six (6) months. Only qualified registered voters who are present at the town meeting at which the elections are held shall be eligible for nomination for municipal office, provided that a qualified registered voter who is not present may be nominated if he or she has agreed in writing to accept the office if elected and has sworn an affidavit that he or she has been a registered voter at an address within the municipality for the last six (6) months. Any person who falsely swears or signs a false affidavit that he or she is qualified for municipal office shall be guilty of a felony. (Amended 1989)

**SECTION 16-307 VOTING ELIGIBILITY--POLLBOOK--ILLEGAL VOTING--PENALTY**

A. The presiding officer at a town meeting shall follow reasonable and necessary procedures to ensure that persons who are not registered voters of the town do not vote. Registered voters shall be seated in a clearly marked area separate from persons not registered to vote.

B. To be eligible to vote at a town meeting, a person must be registered with the county election board at an address located within the municipality. Before being seated in the section reserved for registered voters, each voter shall sign his or her name in a pollbook, said signature to constitute a sworn affidavit on the part of the voter that he or she is eligible to vote at the election. The pollbook shall be prepared by the municipal clerk and shall be substantially the same form as the pollbook prescribed by the State Election Board for school district elections. For such purpose, the municipal clerk or designee of the municipal clerk shall be authorized to administer the oath or affirmation contained in the affidavit. The pollbook shall be on file in the office of the municipal clerk and shall be open to public inspection during reasonable office hours; provided, however, that such pollbooks may be destroyed by the municipal clerk at the end of six (6) months from the date of the election wherein such pollbook was used. Any person knowingly voting illegally or found guilty of casting more than one vote for any office or on any question considered at the meeting shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not to exceed thirty (30) days or both such fine and imprisonment. (Added 1988)

**SECTION 16-308 ELECTION OF MUNICIPAL OFFICERS**

A person present at the meeting electing him or her to municipal office shall be treated as accepting, unless he or she declines before the meeting is adjourned. When not present, he or she shall be served as soon as possible with a written notice of election, signed and mailed by the municipal clerk. No person elected shall assume the duties of the office until he or she has signed the oath of office as required by law. (Added 1988)

**SECTION 16-309 FILING OF LIST OF MUNICIPAL OFFICERS ELECTED--NOTIFICATION OF CHANGES IN LIST**

The municipal clerk shall file with the secretary of the county election board a list of the names and addresses of the municipal officers elected and shall notify the secretary of the county election board of any changes in the list as filed. (Added 1988)

**SECTION 16-310 CONTEST OF ELECTION BY NOMINEE**

Any person nominated for municipal office may, at any time before 5:00 p.m. of the third business day following the town meeting in which he or she was nominated, contest the correctness of the announced results of

said election by filing a written petition with the district court of any county in which the municipality is located. (Added 1988)

**SECTION 16-311 PETITION ALLEGING FRAUD--BOND--HEARING--ANSWER--JUDGMENT--INELIGIBILITY FOR OFFICE--LIABILITY OF CONTESTANT--DAMAGES**

When a petition alleging fraud is filed, said petition must be accompanied by a cash bond of Five Thousand Dollars (\$5,000.00), running in favor of the contestee and conditioned upon payment of any and all liabilities or judgments arising from the contest so filed. In said petition, contestant must allege the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud. If such petition is filed in the manner herein provided, the district judge of the county in which the alleged fraud occurred, or such other judge as may be assigned by the Supreme Court, shall hear and determine said issue without delay or continuance of more than one (1) day. On the day of such hearing, the contestee may file answer to such petition or may file cross petition, setting forth in detail, as required of a petitioner herein, such claim of fraud. An original petition or cross petition must be under oath and under penalty of perjury. The judge shall try and determine the issues formed by such pleadings and render such judgment as he or she may deem just and proper, according to the evidence submitted. The decision of said district judge shall be final as to any changes in the total votes, and a copy of such judgment and decision shall be furnished the officer who presided at the town meeting. In any case where fraud is proved on the part of a nominee, he or she shall be declared ineligible for the office for which he or she was nominated. In all cases where a petition is filed which alleges fraud, but after hearing said allegations are not reasonably sustained by competent evidence, the contestant shall be civilly liable in damages to the contestee for all damages sustained, including a reasonable attorney fee and all reasonable and proper costs of conducting such contest; and in the event it be alleged and found that such petition was frivolous in nature, the contestee may also be allowed punitive damages to be paid by said petitioner. (Added 1988)

**SECTION 16-312 PETITION ALLEGING IRREGULARITIES OTHER THAN FRAUD--SUFFICIENCY OF ALLEGATIONS--HEARING**

When a petition alleging irregularities other than fraud is filed, the petition must allege a sufficient number of irregularities and of such nature as to:

1. Prove that the contestant is lawfully entitled to be announced the winner; or
2. Prove that it is impossible to determine with mathematical certainty which nominee is entitled to be announced the winner. Proof of failure of the presiding officer to take the vote by a paper ballot shall be sufficient proof of this requirement.

If such allegations are not made, the petition shall be deemed frivolous by the presiding judge and shall be dismissed. Said petition must set forth specific allegations of irregularities. If said petition is filed in the manner herein provided, the district judge of the county or such other judge as may be assigned by the Supreme Court shall hear and determine said issue in the same manner as provided for a petition alleging fraud. (Amended 1989)

**SECTION 16-313 IMPOSSIBILITY OF DETERMINING WINNER--SPECIAL TOWN MEETING TO FILL CONTESTED OFFICE**

In the event, after a hearing is conducted pursuant to Section 11 or 12 of this act, it is deemed impossible to determine who should be announced the winner, the judge shall notify the presiding officer of the town meeting of the same. It shall then be the duty of the presiding officer to call a special town meeting for the purpose of filling the contested office, provided that any nominee upon whom fraud has been proved shall not be a nominee in the new election. (Added 1988)

SECTION 16-314 OMISSION OF OR NONCOMPLIANCE WITH NOTICE REQUIREMENTS--CORRECTION--RECTIFICATION OF OTHER ERRORS AND OMISSIONS--VALIDATION OF BUSINESS OF ORIGINAL ACTION

When any of the requirements of this act as to notice of a biennial or special town meeting have been omitted or not complied with, the omission or noncompliance, if the meeting and the business transacted at it is otherwise legal and within the scope of the municipal powers, may be corrected and legalized by a majority vote of the registered voters present at a regular town meeting or special town meeting of the municipality called for that purpose, with notice as required by Section 4 of this act. The question to be voted upon shall substantially be, "Shall the action taken at the meeting of this town held on (state date) in spite of the fact that (state error or omission), and any act or action of the municipal officers or agents pursuant thereto be readopted, ratified and confirmed?". Errors or omissions in the conduct of an original meeting which are not the result of an unlawful notice or noncompliance within the scope of the notice, may be rectified by a resolution of the governing body of the municipality passed by a majority of the members of the governing body at a regular meeting or a special meeting called for that purpose, stating that the defect was the result of oversight, inadvertence or mistake. When an error or omission of this nature has been thus corrected by resolution, all business within the terms of the action of the qualified voters shall be as valid as if the requirements had been initially complied with, on condition, however, that the original action thereby corrected by the governing body was in compliance with the legal exercise of its governing powers. (Added 1988)

SECTION 16-315 ELECTIONS CONDUCTED BY COUNTY ELECTION BOARD--OPTION TO BE HELD AT TOWN MEETING

Whenever in Title 11 of the Oklahoma Statutes provisions are made for election of officers or consideration of questions at elections conducted by the county election board pursuant to Section 16-101 et seq. of Title 11 of the Oklahoma Statutes, such elections may be held or questions considered at biennial or special town meetings, if the municipality is subject to the provisions of this act. (Added 1988)

ARTICLE XVII

MUNICIPAL FINANCES

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## ARTICLE XVII

### MUNICIPAL FINANCES

#### PART 1. GENERAL PROVISIONS

##### SECTION 17-101. BORROWING, APPROPRIATION OF MONEYS--INVESTMENTS

A. Any act of a municipal governing body which provides for the borrowing of monies or for appropriating monies shall not be valid unless a majority of the governing body of the municipality votes in favor of the action. The municipal governing body may not appropriate or draw any order on the treasurer for monies unless the same has been appropriated in the manner provided by law or ordered in pursuance of some object provided for by law.

B. A municipality may invest its funds in any bond, note, or other evidence of indebtedness issued by those agencies, authorities, instrumentalities, or public entities whose governing boards are appointed by the municipality or issued by any public trust of which it is sole beneficiary, excluding obligations which are industrial development bonds as defined in the provisions of Section 103 of the Internal Revenue Code of 1953, as amended, and regulations promulgated thereto.

C. If a municipality has established a system for the separate accounting of monies by fund sources that has been certified by the auditor of the municipality, the treasurer of such municipality acting as an officer of the municipality or as agent of any instrumentality or public trust of the municipality may deposit into one or more

accounts of an authorized depository all monies coming into his custody. Unless otherwise provided for by law, interest earnings shall be prorated according to fund source. (Amended 11/1/84)

#### SECTION 17-102. PAYMENT OF CLAIMS--WARRANT AND CHECK AS ONE INSTRUMENT--EMERGENCY PAYMENTS

A. Any invoice against a municipality must be presented in writing and examined in the manner provided by law. No account or invoice may be paid by the municipality unless it has been audited and allowed by the governing body and an entry of the account or invoice is made in the proper books kept for that purpose. Except as otherwise provided for in this subsection, monies may be drawn from the municipal treasury only upon a proper warrant as provided by law. In lieu of issuing such warrant, a municipality may enter the warrant on the warrant register and record payment of the warrant by check, wire transfer, direct payroll deposit, or other instrument or method of disbursement through the Federal Reserve System.

B. A city or town may issue a negotiable instrument which will serve as both a warrant on the municipal treasury and a check ordering payment of the warranted amount of money from the municipality's account. This instrument shall be prepared and issued in accordance with procedures and requirements provided by law for a municipal warrant and a municipal check and shall be signed by the municipal clerk, treasurer and mayor. Printing on the instrument shall indicate that the instrument is a "warrant" of the municipality and a "check" drawn on the municipality's account. The provisions of state law on uniform facsimile signatures of public officials, Sections 601 through 606 of Title 62 of the Oklahoma Statutes, shall be applicable to instruments authorized by this section.

C. If a majority or all of governing body offices in a town municipality become vacant, thereby preventing approval of amounts lawfully owing on invoices and purchase orders, the interim mayor or the remaining governing body members, as the case may be, may authorize emergency payments of amounts owing on invoices or purchase orders for a period not to exceed ninety (90) days after the date that a majority of the offices become vacant. The interim mayor or the remaining governing body members may also authorize payment of purchase orders for payroll, utility bills, or other usual and regular obligations of the municipality. Any such authorization and payment shall not exceed the unencumbered and unexpended balance of the appropriation made for that purpose, nor may the total amount of such emergency authorizations and payments exceed fifteen percent (15%) of the total appropriations approved for the town government for the fiscal year. Any warrant issued pursuant to this section shall state that it is being issued under emergency circumstances and by special authority of this section. (Amended 1988)

#### SECTION 17-103. ACTIONS AGAINST MUNICIPALITY

No costs may be recovered against a municipality, in any action brought against it, for any unliquidated claim which has not been presented to the governing body for auditing, nor for claims allowed in part unless the recovery shall be for a greater sum than the amount allowed with the interest due. No action may be maintained against a municipality in exercising or failing to exercise any corporate power or authority where such action would not lie against a private individual under like circumstances.

#### SECTION 17-104. LIABILITY FOR VOTING UNLAWFUL CLAIMS

Any governing body member who intentionally votes to appropriate money or to allow any bill or claim which is not authorized by law shall be personally liable to the municipality for the amount of such money appropriated, or bills or claims allowed, with costs of suit, in an action before any court of competent jurisdiction.

#### SECTION 17-105. ANNUAL AUDIT OF BOOKS AND ACCOUNTS

The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more to its general fund during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual audit of the funds, assets, books and records of the clerk and treasurer of the municipality. Such audit shall be ordered within thirty (30) days of the close of each fiscal year. Certified copies shall be filed with the county clerk and the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 24102 and 24103 of Title 68 of the Oklahoma Statutes. The expense of the audit shall be paid from the general fund of the municipality. (Amended, effective 11/1/87)

#### SECTION 17-105.1 FILING OF AUDITS AND REPORTS--FORMS--PUBLIC INSPECTION--COMPILING INFORMATION

An auditor shall file with the State Auditor and Inspector, at the same time a certified copy of an audit is filed as required in Section 17-105 of Title 11 of the Oklahoma Statutes, two (2) copies of a report setting forth for the fiscal year audited the funds available to the municipality and the use of those funds. The report shall also include information relating to the duly constituted authorities of the municipality and shall be on a form approved by the State Auditor and Inspector. Copies of said audit and the report shall be made available for public inspection by the municipality and the State Auditor and Inspector. The State Auditor and Inspector may contract for the compilation and reporting of the information submitted on the report. (Amended 11/1/84)

#### SECTION 17-106. CONTENTS OF AUDIT REPORT

The annual audit report of a municipality shall contain:

1. A statement of the scope of the examination;
2. The auditor's opinion as to whether the audit was made in accordance with generally accepted auditing standards applicable in the circumstances;
3. The auditor's opinion as to whether the financial statements included in the audit report present fairly the results of the operations during the period audited;
4. The auditor's opinion as to whether the financial statements accompanying the audit were prepared in accordance with generally accepted accounting principles applicable to cities and towns;
5. The reason or reasons an opinion is not rendered with respect to paragraphs 3 and 4 of this section in the event the auditor is unable to express an opinion with respect thereto; and
6. Financial statements presented in such form as to disclose the operations of each fund of the municipality and a statement of the operation of all funds.

#### SECTION 17-107. FAILURE TO FILE AUDIT REPORT

If a municipality does not file a copy of its audit as provided in Section 17-105 of this title, the State Auditor and Inspector shall notify the Oklahoma Tax Commission which shall withhold from the municipality its monthly allocations of gasoline taxes until the audit report is filed. (Amended, effective 4/6/79)

#### SECTION 17-108. TRUSTS EXEMPT

The requirements of Sections 17-105 through 17-107 of this title shall not apply to trusts of which a city or town is the beneficiary, the same being covered under Section 180.1 of Title 60 of the Oklahoma Statutes.

#### SECTION 17-109. CAPITAL IMPROVEMENT FUND--AUTHORITY TO CREATE

The municipal governing body may create a capital improvement fund and place in the fund any money available to the municipality. Money in the fund may be accumulated from year to year. The fund shall be placed in

an insured interest bearing account. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the capital improvement fund may be expended for any capital improvement.

#### SECTION 17-110. CAPITAL IMPROVEMENTS--DEFINITIONS

For the purpose of creating a capital improvement fund and expending money therefrom, capital improvement 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 capital improvement fund.

#### SECTION 17-111. APPROVAL OF CLAIMS FROM CAPITAL IMPROVEMENT FUND

No funds may be appropriated or expended from the capital improvement account in the absence of a recorded vote by the governing body and until claims duly verified by affidavit are presented and approved by the governing body.

#### SECTION 17-112. MANUFACTURING ESTABLISHMENTS AND PUBLIC UTILITIES--EXEMPTION FROM MUNICIPAL TAXATION

Any municipality may, by a majority vote of the registered voters of the municipality voting on the question, exempt from municipal taxation for a period not to exceed five (5) years new manufacturing establishments and public utilities locating in the municipality.

#### SECTION 17-113. PUBLICATION OF CITY FINANCIAL STATEMENTS

The council of each city having a population in excess of five thousand (5,000) persons, according to the latest federal census, shall cause to be published in October and in April of each year a full and detailed statement of the receipts, expenditures and indebtedness of the city for the periods ending on the last day of September and the last day of March, respectively. All publications mentioned in this section shall be made in a newspaper of general circulation in the city. The provisions of this section shall not apply to any city governed by charter where the charter provides for the manner or procedure for publication of such financial information.

#### SECTION 17-114. VENDOR INVOICES AND CONTRACT ESTIMATES--PAYMENT PROCEDURES--UNIFORM JACKETS

To facilitate the payment of vendor invoices and contract estimates the municipal finance officer may design a uniform jacket to be used by all departments and divisions of the municipality whereon shall be provided summarized information relative to the enclosed invoices or contract estimates, together with a space for the approval of the head of the department or division approving said vendor invoices or contract estimates for payment. Vendor invoices and contract estimates may be accepted by the municipality in lieu of the claim form previously required in the same manner as commercial invoices are paid. If utilized, vendor invoices and contract estimates shall be filed with the department or division receiving the merchandise or services in the same manner as invoices are filed with commercial firms. Upon receipt of invoices or contract estimates the head of the department or division or his authorized agent, may approve said documents for payment by executing a certificate of delivery or acceptance of the goods or services. Whereupon, the authorized official of said agency may ap-

prove said invoices or contract estimates for payment by enclosing the invoice or contract estimate in a jacket provided for such purpose and affixing his or her approval in the space provided on the jacket. (Added 1990)

## PART 2. MUNICIPAL BUDGET ACT

### SECTION 17-201. MUNICIPAL BUDGET ACT

This act may be cited as the "Municipal Budget Act". (Effective 10/1/79)

### SECTION 17-202. PUBLIC POLICY

The purpose of this act is to provide an alternate budget procedure for municipal governments which will:

1. Establish standard and sound fiscal procedures for the adoption and administration of budgets;
2. Make available to the public and investors sufficient information as to the financial conditions, requirements and expectations of the municipal government; and
3. Assist municipal governments to improve and implement generally accepted standards of finance management. (Effective 10/1/79)

### SECTION 17-203. APPLICATION--CONTINUATION

This act shall apply to any incorporated city or town which, by resolution of the governing body, opts to come under and comply with all its provisions and requirements. Once a municipality has selected the Municipal Budget Act to govern its budget procedures, the provisions of this act shall take precedence over any other state laws applicable to municipal budgets, except as may be provided otherwise in this act, and supersede any conflicting laws. Any action of a municipal governing body to implement, rescind or repeal the application of the Municipal Budget Act shall be effective as of the beginning or end of a budget year pursuant to this act. (Effective 10/1/79)

### SECTION 17-204. DEFINITIONS

As used in this act:

1. "Account" means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund or department;
2. "Appropriation" means an authorization and allocation of money to be expended for a purpose;
3. "Budget" means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;
4. "Budget summary" means a tabular listing of revenues and expenditures by fund and by department within each fund for the budget year;
5. "Budget year" means the fiscal year for which a budget is prepared or being prepared;
6. "Chief executive officer" means the mayor of an aldermanic city or a strong-mayor-council city, the mayor of a town, or the city manager or chief administrative officer as it may be defined by applicable law, charter or ordinance;
7. "Current year" means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;
8. "Deficit" means the excess of the liabilities, reserves, contributions and encumbrances of a fund over its assets as reflected by its book of account;
9. "Department" means a functional unit within a fund which carries on a specific activity, such as a fire department or a police department within a general fund;

10. "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared. Revenue includes any appropriated fund balance in the budget of revenues for a fund for the budget year;

11. "Fiscal year" means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides;

12. "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts to record cash and other financial resources, together with all liabilities, which are segregated for the purpose of carrying on specific activities or attaining certain objectives;

13. "Fund balance" means the excess of the assets of a fund over its liabilities, reserves, contributions and encumbrances, as reflected by its books of account;

14. "Governing body" means the city council of a city, the board of trustees of a town, or the legislative body of a municipality as it may be defined by applicable law or charter provision;

15. "Immediate prior fiscal year" means the year next preceding the current year;

16. "Levy" means to impose ad valorem taxes or the total amount of ad valorem taxes for a purpose or entity;

17. "Operating reserve" means that portion of the fund balance which has not been appropriated in a budget year; and

18. "Municipality" means any incorporated city or town. (Amended, effective 5/27/80)

#### SECTION 17-205. BUDGET REQUIRED--CHIEF EXECUTIVE OFFICER

At least thirty (30) days prior to the beginning of each fiscal year, a budget for the municipality shall be prepared by the chief executive officer and submitted to the governing body. The chief executive officer may require any other officer or employee who is charged with the management or control of any department or office of the municipality to furnish estimates for the fiscal year covering estimated revenues and expenditures of the department or office on or before a date set by the chief executive officer. (Effective 10/1/79)

#### SECTION 17-206. CONTENTS--ESTIMATES--BUDGET REQUIREMENTS

A. The municipal budget shall present a complete financial plan for the municipality and shall present information necessary and proper to disclose the financial position and condition of the municipality and the revenues and expenditures thereof, both past and anticipated.

B. The budget shall contain a budget summary. It shall also be accompanied by a budget message which shall explain the budget and describe its important features. The budget format shall be as provided by the governing body in consultation with the chief executive officer. It shall contain at least the following in tabular form for each fund, itemized by department and account within each fund:

1. Actual revenues and expenditures for the immediate prior fiscal year;

2. Revenues and expenditures for the current fiscal year as shown by the budget for the current year as adopted or amended; and

3. Estimates of revenues and expenditures for the budget year.

C. The estimate of revenues for any budget year shall include probable income by source which the municipality is legally empowered to collect or receive at the time the budget is adopted. The estimate shall be based on a review and analysis of past and anticipated revenues of the municipality. Any portion of the budget of revenues to be derived from ad valorem property taxation shall not exceed the amount of tax which is available for appropriation, as finally determined by the county excise board, or which can or must be raised as required by law. The budget of expenditures for each fund shall not exceed the estimated revenues for each fund. No more than ten percent (10%) of the total budget for any fund may be budgeted for miscellaneous purposes. Included in the budget of revenues or expenditures for any fund may be amounts transferred from or to another

fund. Any such interfund transfer must be shown as a disbursement from the one fund and as a receipt to the other fund. (New, effective 10/1/79)

**SECTION 17-207. GENERAL FUND AND OTHER FUND--SINKING FUND**

Any monies received or expended by a municipality must be accounted for by fund and account. Each municipality shall prepare a budget for the general fund and for other funds as the governing body may require pursuant to Section 17-212 of this title. The municipal governing body shall determine the needs of the municipality for sinking fund purposes, pursuant to Section 431 of Title 62 of the Oklahoma Statutes, Section 2497 of Title 68 of the Oklahoma Statutes, and Section 28 of Article 10 of the Oklahoma Constitution, and include these requirements in the debt service fund budget for the budget year. (Amended 7/1/84)

**SECTION 17-208. NOTICE AND HEARING**

The municipal governing body shall hold a public hearing on the proposed budget no later than fifteen (15) days prior to the beginning of the budget year. Notice of the date, time and place of the hearing, together with the proposed budget summary, shall be published in a newspaper of general circulation in the municipality not less than five (5) days before the date of the hearing. The municipal clerk shall make available a sufficient number of copies of the proposed budget as the governing body shall determine and have them available for review or for distribution or sale at the office of the municipal clerk. Whenever the total operating budget, not including debt service, does not exceed Twelve Thousand Dollars (\$12,000.00) per year, the proposed budget summary and notice may be posted at the governing body's principal headquarters in lieu of publication in a newspaper. At the public hearing on the budget any person may present to the governing body comments, recommendations or information on any part of the proposed budget. (Effective 10/1/79)

**SECTION 17-209. ADOPTION OF BUDGET--FILING--APPROPRIATION--LEVY BY COUNTY EXCISE BOARD**

After the hearing and at least seven (7) days prior to the beginning of the budget year, the governing body shall adopt the budget. The governing body may add or increase items or delete or decrease items in the budget. In all cases the proposed expenditures shall not exceed the estimated revenues for any fund.

B. The adopted budget shall be filed with the excise board of each county in which the municipality is located on or before the first day of the budget year. At the same time that the budget is filed with the excise board, one copy of the budget as adopted shall be transmitted to the State Auditor and Inspector and one copy shall be kept on file in the office of the municipal clerk.

C. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose except as provided by law.

D. At the time required by law, the county excise board shall levy the taxes necessary for the municipality's sinking fund for the budget year pursuant to Section 431 of Title 62 of the Oklahoma Statutes. (Effective 10/1/79)

**SECTION 17-210 PROTESTS--PUBLIC RECORD**

Within fifteen (15) days after the filing of any municipal budget with the State Auditor and Inspector, any taxpayer may file protests against any alleged illegality of the budget in the manner provided by this section and Sections 24104 through 24111 of Title 68 of the Oklahoma Statutes. The fifteen-day protest period begins upon the date the budget is received in the Office of the State Auditor and Inspector. After receipt of a taxpayer protest, the State Auditor and Inspector shall transmit by certified mail one copy of each protest to the municipal clerk, and one copy of each protest to the county treasurer and the excise board of each county in which the mu-

municipality is located. The taxpayer protest shall specify the alleged illegality in the budget and the grounds upon which the alleged illegality is based. Any protest filed by any taxpayer shall inure to the benefit of all taxpayers. If no protest is filed by any taxpayer within the fifteen (15) day period, the budget and any appropriations thereof shall be deemed legal and final until amended by the governing body or the county excise board as authorized by law. Taxpayers shall have the right at all reasonable times to examine the budget on file with the municipal clerk, the county excise board, or the State Auditor and Inspector for the purpose of checking illegalities in the budget or for filing protests in accordance with this section and Sections 24104 through 24111 of Title 68. (Amended, effective 5/27/80)

#### SECTION 17-211. DEFICITS--PROHIBITIONS--VIOLATIONS--PENALTY

A. No expenditure may be authorized or made by any officer or employee which exceeds any fund balance for any fund of the budget as adopted or amended or which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year.

B. It shall be unlawful for any officer or employee of the municipality in any budget year:

1. To create or authorize creation of a deficit in any fund; or
2. To authorize, make or incur expenditures or encumbrances in excess of ninety percent (90%) of the appropriation for any fund of the budget as adopted or amended until revenues in an amount equal to at least ninety percent (90%) of the appropriation for the fund have been collected. Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the municipality. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void. (Effective 10/1/79)

#### SECTION 17-212. ESTABLISHMENT OF FUNDS--ACCOUNTS

A municipality shall establish funds consistent with legal and operating requirements. Each municipality shall maintain according to its own needs some or all of the following funds or ledgers in its system of accounts:

1. A general fund, to account for all monies received and disbursed for general municipal government purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account. All monies received by the municipality under the motor fuel tax or under the motor vehicle license and registration tax and earmarked for the street and alley fund may be deposited in the general fund and accounted for as a "street and alley account" within the general fund. Expenditures from this account shall be made as earmarked and provided by law. All references to the street and alley fund or to the special fund earmarked for state-shared gasoline and motor vehicle taxes may mean the street and alley account provided in this section;

2. Special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specified purposes;

3. Debt service fund, which shall include the municipal sinking fund, established to account for the retirement of general obligation bonds or other long term debt and payment of interest thereon and judgments as provided by law. Any monies pledged to service general obligation bonds or other long term debt must be deposited in the debt service fund;

4. Capital improvement fund, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities other than those financed by general long term debt;
5. Enterprise funds, to account for each utility or enterprise or other service, other than those operated as a department of the general fund, where the costs are financed primarily through user charges or where there is a periodic need to determine revenues earned, expenses incurred or net income for a service or program;
6. Trust and agency funds, to account for assets held by the municipality as trustee or agent for individuals, private organizations or other governmental units or purposes, such as a retirement fund or a cemetery perpetual care fund;
7. Special assessment funds, to account for the financing of public improvements or services deemed to benefit properties against which special assessments are levied; a separate fund for each special improvement district established by the governing body shall be established, each of which shall be known as a special assessment fund;
8. Internal service funds, to account for the financing of goods or services provided by one department or agency of the municipality to another department or agency, or to another government, on a cost reimbursement basis;
9. A ledger or group of accounts in which to record the details relating to the general fixed assets of the municipality;
10. A ledger or group of accounts in which to record the details relating to the general bonds or other long term debt of the municipality; or
11. Such other funds or ledgers as may be established by the governing body. (Effective 10/1/79)

#### SECTION 17-213. CLASSIFICATION OF REVENUES AND EXPENDITURES.

Each fund shall be made up of accounts for classifying revenues and expenditures. Revenues shall be classified separately by source. Expenditures shall be departmentalized within each fund and shall be classified into at least the following accounts:

1. Personal services, which may include expenses for salaries, wages, per diem or other compensation, fees, allowances or reimbursement for travel expenses, and related employee benefits, paid to any officer or employee for services rendered or for employment. Employee benefits may include employer contributions to a retirement system, insurance, sick leave, terminal pay or similar benefits;
2. Materials and supplies, which may include articles and commodities which are consumed or materially altered when used, such as office supplies, operating supplies and repair and maintenance supplies, and all items of expense to any person, firm or corporation rendering a service in connection with repair, sale or trade of such articles or commodities;
3. Other services and charges, which may include all current expenses other than those listed in paragraphs 1, 2, 4 or 5 of this section, such as services or charges for communications, transportation, advertising, printing or binding, insurance, public utility services, repairs and maintenance, rentals, miscellaneous items and all items of expenses to any person, firm or corporation rendering such services;
4. Capital outlays, which may include outlays which result in acquisition of or additions to fixed assets which are purchased by the municipality, including machinery and equipment, furniture, land, buildings, improvements other than buildings, and all construction, reconstruction, appurtenances or improvements to real property accomplished according to the conditions of a contract; and
5. Debt service, which may include outlays in the form of debt principal payments, periodic interest payments, or related service charges for benefits received in part in prior fiscal periods as well as in current and future fiscal periods. (Effective 10/1/79)

SECTION 17-214. RESERVE

A municipality may create an operating reserve for the purpose of providing a fund or reserve out of which to meet emergency expenditures. (Effective 10/1/79)

SECTION 17-215. FUNDS AND ACCOUNT TRANSFERS

The chief executive officer, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one account to another within the same department or from one department to another within the same fund; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required. Any fund balance in an enterprise fund of the municipality may be transferred to another fund of the municipality as authorized by the governing body. Other interfund transfers may be made only as authorized by this act or as provided in the budget as adopted or amended according to Sections 17-206 or 17-216 of this title. Whenever the necessity for maintaining any special fund of a municipality has ceased to exist and a balance remains in the fund, the governing body may authorize the transfer of the balance to the general fund. Applicable law shall govern the use or transfer of balance in any debt service or special assessment fund. (Amended, effective 5/27/80)

SECTION 17-216. SUPPLEMENTAL APPROPRIATIONS--LIMITATIONS PROCEDURE

A. The governing body may amend the budget to make supplemental appropriations to any fund up to the amount of additional revenues which are available for current expenses as shown by a fund balance for the fund due to:

1. Revenues received from sources not anticipated in the budget for that year;
2. Revenues received from anticipated sources but in excess of the budget estimates therefor; or
3. Unexpended unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget. Any appropriation authorizing the creating of an indebtedness shall be governed by the applicable provisions of Article 10 of the Oklahoma Constitution.

B. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of appropriation for the fund, the governing body shall take action as it deems necessary. For that purpose, it may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one fund to another fund, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance thereof. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law.

C. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease or change in appropriation or funds shall be adopted at a meeting of the governing body and filed with the municipal clerk, the county excise board of each county in which the municipality is located, and the State Auditor and Inspector. (Effective 10/1/79)

ARTICLE XXII

GENERAL POWERS OF MUNICIPALITIES

Section:

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- 22-101.2 Coercion Prohibited
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## ARTICLE XXII

### GENERAL POWERS OF MUNICIPALITIES

#### SECTION 22-101. CORPORATE POWERS OF MUNICIPALITIES

All incorporated municipalities shall be bodies corporate and politic, and shall have the powers to:

1. Sue and be sued;
2. Purchase and hold real and personal property for the use of the municipality;
3. Sell and convey any real or personal property owned by the municipality and make orders respecting the same as may be conducive to the best interests of the municipality;
4. Make all contracts and do all other acts in relation to the property and affairs of the municipality, necessary to the good government of the municipality, and to the exercise of its corporate and administrative powers; and
5. Exercise such other powers as are or may be conferred by law.

#### SECTION 22-101.1. POLITICAL ACTIVITIES BY MUNICIPAL EMPLOYEES--EXCEPTIONS--FILING AS CANDIDATE

Municipal employees may attend and express their views at city council meetings, or any other public meetings of municipal entities.

Any municipal employee may actively participate in partisan and nonpartisan political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees. Municipal corporations may establish employment requirements requiring municipal employees to refrain from filing as a candidate for public office while employed by said municipality. (Amended 6/24/83)

#### SECTION 22-101.2. COERCION PROHIBITED

It shall be unlawful for the governing body or officer of any municipal corporation in this state to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings. (Added eff. 10/19/81)

#### SECTION 22-101.3. PENALTIES

Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor. (Added eff. 10/19/81)

#### SECTION 22-102. PROOF OF LEGAL ORGANIZATION OR ORDINANCES

A. If a suit is instituted by a municipality, the municipality shall not be required to post bond or to show its compliance with any of the provisions of law as to its organization or publication of ordinances unless the same is controverted by affidavit.

B. A municipality shall be entitled to recover its costs and attorney fees on the same terms and in the same manner as any other party. (Amended 11/1/84)

#### SECTION 22-103. SERVICE OF NOTICE OR PROCESS ON MUNICIPALITY

Any notice or process affecting a municipality shall be served upon the municipal clerk, or in his or her absence then upon a deputy municipal clerk or upon the mayor. (Amended 11/1/84)

SECTION 22-104. RIGHT TO ENGAGE IN BUSINESS--PUBLIC UTILITIES AND IMPROVEMENTS--EMINENT DOMAIN--ISSUANCE OF BONDS--LEASE OF PUBLIC UTILITY

Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality; and
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 park purposes, and for the location thereon of waterworks, electric light and gas plants and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction plants, pipelines for the transmission and transportation of gas, water, stormwater, and sewerage, and for any plant for the manufacture of any material for public improvement purposes and public buildings; and
3. Exercise the right of eminent domain for any municipal purpose, within or without its corporate limits, and to establish, lay, and operate any plant or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made; and
4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same; and
5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks and improvements; and
6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by such municipally owned or controlled public utility, business enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality; and
7. Lease at a stipulated rental any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future. (Amended 11/1/87)

SECTION 22-105. CONDEMNATION OF PRIVATE PROPERTY

Private property may be taken for public use, or for the purpose of giving a right-of-way or other privilege for any necessary purpose, in the manner provided by law; but in every case the municipality shall make adequate compensation to the person or persons whose property shall be taken or injured thereby as provided by law.

SECTION 22-106. LICENSE TAX ON OCCUPATIONS--AUTHORITY TO LEVY AND COLLECT--PENALTIES

A. A municipal governing body may levy and collect a license tax on auctioneers, contractors, druggists, hawkers, peddlers, bankers, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, public boarding houses, billiard tables, bowling alleys, and other amusement devices, drays, hacks, carriages, omnibuses, carts, wagons and other vehicles used in the municipality for pay, hay scales, lumber dealers, furniture dealers, saddle or harness dealers, stationers, jewelers, livery stable keepers, real estate

agents, express companies or agencies, telegraph companies or agencies, shows, theatres, all kinds of exhibitions for pay, also photographers, photographers' agents, agents of all kinds and solicitors. The taxes so levied and collected shall be applied for the use and benefit of the municipality as the governing body may direct.

B. All scientific and literary lectures and entertainments shall be exempt from license taxation, and also all concerts and musical or other entertainments given exclusively by the citizens of the municipality.

C. The governing body may establish penalties for any failure to observe the license provisions or to pay the tax provided for by ordinance.

## SECTION 22-107. LICENSES REGULATED BY ORDINANCE--EXPIRATION--ISSUANCE

Text as amended by Laws 1984, c. 102, Section 1:

A. Municipal licenses and license fees shall be regulated by ordinance. A municipality may establish such license requirements as it deems appropriate in the exercise of its police power and may provide that each applicant supply his state sales tax identification number or proof of exemption pursuant to provisions of the Sales Tax Code. Any license issued by the governing body shall expire no later than one (1) year after the date of its issuance or on April 30 of each year. No license may be issued until the amount prescribed therefor is paid to the municipal treasurer. No license in any case may be assigned or transferred. Licenses shall be signed as provided for by ordinance. The clerk shall affix the corporate seal of the municipality to the license. A municipality and the Oklahoma Tax Commission may exchange information to further the collection or enforcement of state and local taxes.

B. The municipality, its officers and employees shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided by Section 205 of Title 68 of the Oklahoma Statutes, provided that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances or licensing ordinances. (Amended 4/5/84)

Text as amended by Laws 1984, c. 126, Section 41:

Municipal licenses and license fees shall be regulated by ordinance. A municipality may establish such license requirements as it deems appropriate in the exercise of its police power and may provide that each applicant supply his state sales tax identification number or proof of exemption pursuant to the provisions of Title 68 of the Oklahoma Statutes. Any license issued by the governing body shall expire no later than one (1) year after the date of its issuance or on June 30 of each year. No license may be issued until the amount prescribed therefor is paid to the municipal treasurer. No license in any case may be assigned or transferred. Licenses shall be signed as provided for by ordinance. The clerk shall affix the corporate seal of the municipality to the license. A municipality and the Oklahoma Tax Commission may exchange information to further the collection or enforcement of state and local taxes. The municipality and the officers and employees of the municipality shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided for by Section 205 of Title 68 of the Oklahoma Statutes, provided that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances or licensing ordinances. (Amended 11/1/84)

## SECTION 22-107.1 COMMUNITY ANTENNA TELEVISION SYSTEMS

A. A municipality may by ordinance or otherwise issue a certificate, license or permit, for the operation of a cable television system. A municipality may establish such certificate, license or permit requirements as it deems

appropriate in the exercise of its power. Any certificate, license or permit issued by the governing body shall be nonexclusive and shall not exceed a period of twenty-five (25) years and may be revocable by the governing body if said body determines that the holder of the certificate, license or permit has willfully failed or neglected to perform duties pursuant to the terms of the grant of the certificate, license or permit. A certificate, license or permit may be assigned or transferred subject to approval of the governing body of the municipality. Nothing herein shall limit the authority of a municipality to comply with state or federal law.

B. No municipality shall grant any overlapping certificate, license, permit or franchise for cable television service within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing certificate, license, permit or franchise within such municipality.

C. No municipal provisions regulating a cable television system may be adopted which are inconsistent with either state or federal law relating to cable television operations. (Amended 1988)

#### SECTION 22-108. POWER TO SUPPRESS GAMING AND GAMBLING

The municipal governing body may enact ordinances to restrain, prohibit, and suppress games and gambling houses, bowling alleys, pool and billiard tables, and other gambling tables. The powers granted to municipalities in this section shall not be construed to repeal any gambling law now on the statute books, but shall be cumulative only.

#### SECTION 22-109. DISORDERLY HOUSES AND PUBLIC INDECENCIES

The municipal governing body may enact ordinances to restrain, prohibit, and suppress houses of prostitution and other disorderly houses and practices, and all kinds of public indecencies. No municipal officer shall accept or receive any hush money, or any money or valuable things, from any person or persons engaged in any such business or practice, or grant any immunity or protection against a rigid enforcement of the laws and ordinances enacted to restrain, prohibit and suppress any such business or practice.

#### SECTION 22-110. RIOTS, ASSAULTS AND DISTURBANCES--FIREARMS AND FIREWORKS

The municipal governing body may regulate or prohibit riots, assaults, batteries, petty larceny, disturbances or disorderly assemblies, and immoral or indecent shows, exhibitions or concerts, in any street, house or place in the municipality; and may regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or other dangerously combustible material in the streets, lots, grounds, alleys or about, or in the vicinity of any buildings. The governing body may also regulate the carrying of firearms or other deadly weapons, concealed or otherwise, as provided in Section 1289.24 of Title 21 of the Oklahoma Statutes. (Amended 11/1/85)

#### SECTION 22-111. CLEANING AND MOWING OF PROPERTY--HEARING--COSTS--LIEN

A. A municipal governing body may cause property within the municipal 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 governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and said notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice

may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title, one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by certified mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months after the removal of trash or cutting or mowing of weeds or grass on the property pursuant to such notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

2. The owner of the property may give his written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving said written consent, the owner waives his right to a hearing by the municipality;

3. A hearing may be held by the municipal governing body 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;

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the municipality 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 municipality. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on said property for the cleaning or mowing costs;

5. The governing body shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for said cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. Said fee shall be deposited to the credit of the general fund of the county. At any time prior to the collection as provided in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in subsection A of this section. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

B. If a municipal governing body causes property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the municipality shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of subsection A of this section. Provided, however, that this subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

C. The municipal governing body may enact ordinances to prohibit owners of property or persons otherwise in possession or control located within the municipal limits from allowing trash to accumulate, or weeds to grow or stand upon the premises and may impose penalties for violation of said ordinances.

D. As used in this section:

1. "Weed" includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

a. exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;

b. regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;

c. harbors rodents or vermin;

d. gives off unpleasant or noxious odors;

e. constitutes a fire or traffic hazard; or

f. is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned.

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

4. "Cleaning" means the removal of trash from property.

E. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Amended 1990)

## SECTION 22-112. CONDEMNATION OF DILAPIDATED BUILDINGS--NOTICE--REMOVAL--LIEN

A municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this section:

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 governing body holds a hearing. A copy of the notice shall be posted on the property to

be affected. In addition, a copy of said 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 municipality 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 this title. Such notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section.

2. A hearing shall be held by the governing body 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 said property creates a fire hazard which is dangerous to other property.

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard, and that the property would be benefited by the removal of such conditions, the governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the municipality at the hearing, and stating that the municipality claims a lien on said property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of said notice. The agents of the municipality 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 dates fixed by the governing body.

4. The governing body 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 municipal clerk shall forward a statement of such 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 said statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a municipality 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 dismantling and removal of the dilapidated buildings. If dismantling and removal of dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

5. When payment is made to the municipality for costs incurred, the municipal 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 municipal 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. Said 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. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the 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. Said fee shall be deposited to the credit of the general fund of the county. 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 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 municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

6. The municipality may designate, by ordinance, an administrative officer or administrative body to carry out the duties of the governing body specified in this section. The property owner shall have the right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

7. For the purposes of this section, "dilapidated building" means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

8. Nothing in the provisions of this section 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.

9. The officers, employees or agents of the municipality shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

10. The provisions of this act shall not apply to any property zoned and used for agricultural purposes. (Amended 1990)

#### SECTION 22-112.1 BOARDING AND SECURING DILAPIDATED BUILDINGS--PROCEDURE--NOTICE

A. After a building has been declared dilapidated, as provided in Section 22-112 of this title, and before the commencement of the tearing and removal of a dilapidated building, the governing body may cause such a building to be boarded and secured.

B. A governing body of any municipality may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of Section 22-111 of this title.

C. A governing body of any municipality may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the governing body 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 22-112 of this title. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of paragraph 9 of subsection C 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 municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving said written consent, the owner waives his right to a hearing by the municipal governing body;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the municipal governing body to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of paragraph 3 of subsection A of Section 22-111 of this title. In making such determination, the governing body shall apply the following standard: the governing body 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 such a determination, the municipal governing body may order the boarding and securing of the unsecured building;

4. After the governing body orders the boarding and securing of such unsecured building, the municipal clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the municipality at the hearing at which such building was determined to be unsecured, and stating that the municipality claims a lien on said 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 said notice;

5. Pursuant to the order of the governing body, the agents of the municipality are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the municipality;

6. After an unsecured building has been boarded and secured, the governing body shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The municipal clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in Section 22-112 of this title. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

If a municipality boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

7. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the municipal 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. Said costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the

notice of the lien is filed with the county clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this 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 municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body specified in subsection C of this section. The property owner or mortgage holder shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered;

9. If a municipal governing body causes a structure within the municipal 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 municipality 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 municipal clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in paragraph 1 of subsection C 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 paragraphs 6 and 7 of this subsection;

10. A governing body of any municipality may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this subsection even though such building has not been declared, by the governing body, to be dilapidated; and

11. For the purposes of this section:

a. "boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure; and

b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

D. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Amended 1990)

#### SECTION 22-113. FIRE HAZARDS AND BUILDING LOCATION RESTRICTIONS

The municipal governing body may regulate the construction or suppression, and cleaning of any apparatus, fixtures, or equipment used in any building, manufactory, or business which may cause or promote fires, may prescribe limits within which dangerous or hazardous businesses may be carried on and may adopt fire prevention codes and regulations. The governing body may impose penalties for the violation of such ordinances and may remove or abate any buildings constructed or located in violation of its ordinances. (Amended 11/1/84)

#### SECTION 22-114. ENTRY UPON PRIVATE PROPERTY FOR SURVEYS AND EXAMINATIONS--REIMBURSEMENT FOR DAMAGES

A. Municipalities through their authorized agents or employees may enter upon any lands, waters, or premises for the purpose of making surveys, soundings, or examinations as may be necessary for the purpose of establishing, locating, relocating, constructing, or maintaining any sewer, waterworks, drain, or public works or facilities. Entry may also be made for the purpose of terminating any public utility services if the municipality determines the existence of a hazard to the health, safety, or welfare of the general public in connection with said services. Said entry shall not be deemed a trespass, nor shall an entry pursuant to any condemnation proceedings which may be pending be deemed a trespass. If the municipality does not have written consent for entry from the owner and lessee, the municipality shall give notice to the owner and lessee of the property to be entered, by certified mail at least fourteen (14) days prior to any entry. If the owner and lessee are unable to be given notice by certified mail, notice shall be given by publication.

B. Municipalities shall make reimbursement for any actual damages to lands, water, or premises as a result of the entry onto property as authorized in this section. If there is a disagreement as to the amount of any damage, either the person incurring any damage to land, water, or premises or the municipality may file a petition with the district court in the county where the alleged damage occurred requesting the appointment of a commissioner to appraise the damage and proceed to have the damage determined as in condemnation proceedings. (Amended 11/1/84)

#### SECTION 22-115. ANIMALS RUNNING AT LARGE--REGULATION AND TAXATION

The municipal governing body may regulate or prohibit animals from running at large. Animals which are running at large may be impounded and sold to discharge any costs and penalties established by the governing body and the expense of impounding, keeping or sale of such animals. The governing body may also provide for the erection of pens, pounds, and buildings for the use of the municipality, within or without the municipal limits, and appoint and compensate keepers thereof, and establish and enforce rules governing the pens, pounds or buildings. The governing body may also regulate and provide for taxing the owners and harborers of dogs, and authorize the killing of dogs which are found at large in violation of any ordinance regulating the same.

#### SECTION 22-116. JURISDICTION OVER PUBLIC GROUNDS AND NAVIGABLE STREAMS

The municipality shall have jurisdiction over any real property within or without its corporate limits belonging to the municipality. Unless otherwise provided for by law, the municipality may regulate the banks, shores, and wharves of navigable streams within the corporate limits. (Amended 11/1/84)

#### SECTION 22-117. TRAFFIC REGULATIONS--CONTROL OF STREETS--SCHOOL ZONES

A. The municipal governing body may establish ordinances and regulations governing the operation of motor vehicles and traffic upon the roads and streets within the municipality in the manner provided by, and not inconsistent with, state law. The governing body may also regulate and prevent racing and fast driving, and all games, practices or amusements likely to result in damage to any person or property, in the streets, highways, alleys, bridges, sidewalks or other places in the municipality, and riding or driving over or upon the sidewalks of the municipality.

B. Any municipal governing body which establishes ordinances and regulations governing school zone speed limits, shall place school zone signs designating the beginning and end of the zone on the side or in the center of the roadway. Such end zone signing shall be as follows:

(a) On roadways of two driving lanes, only the end zone signing may be on either side of the roadway or in the center of the roadway.

(b) On roadways in excess of two driving lanes, the end zone signing shall be on the right side of the roadway or in the center of the roadway if said roadway is divided by a median.

#### SECTION 22-117.1 POSSESSION OF SECURITY VERIFICATION FORM MAY BE REQUIRED FOR CERTAIN VEHICLES

Pursuant to Section 22-117 of this title, a municipality may by ordinance require the operator of any motor vehicle registered in this state to carry a current security verification form as defined in Article VI, Chapter 7 of Title 47 of the Oklahoma Statutes or equivalent form which has been issued by the Department.

Any person producing proof that a current security verification form or equivalent form which has been issued by the Department was in force for such person at the time of the alleged offense shall be entitled to dismissal of such charge upon payment of court costs; however, if proof of security verification is presented to the court within forty-eight (48) hours after the violation, the charge shall be dismissed without payment of court costs.

Upon conviction, bond forfeiture or deferral of sentence, the court shall forward an abstract to the Department of Public Safety within ten (10) days reflecting the action taken by the court. (Amended 11/1/84)

#### SECTION 22-118. REGULATION OF TAXICABS--SPECIFIC REQUIREMENTS

The municipal governing body is vested with full police powers, for the purpose of preserving public health, safety and welfare, over the operation, regulation and control of taxicabs within the limits of the municipality. The municipal governing body may prescribe regulations for the operation of taxicabs, which regulations may include, and shall be limited to the following specific powers and subjects:

1. Requirement of minimum insurance, bond or other indemnity for public liability upon each taxicab; and if other than standard insurance be permitted, requirement and specifications of terms and conditions under which such other indemnity shall be accumulated, held, maintained, managed, and disposed of to secure persons in whose favor any liability shall arise out of the operation of taxicabs;
2. Requirement of minimum standards of mechanical condition and efficiency of any vehicle used as a taxicab, together with the power to require inspections to insure compliance therewith;
3. Restriction of the loading of taxicabs to specified zones or localities; including the power to prohibit punish "cruising" and the making of such other rules governing the manner of operation of taxicabs as the public safety may require;
4. Determination, establishment, and enforce-ment of maximum and/or minimum rates and charges to be made by taxicabs for the transportation of passengers; including, but not requiring, the establishment of zones as the basis of such rates, or the requirement of taximeters as the basis of calculating such charges;
5. Requirement of municipal license for the operation of each taxicab; together with the right to levy and exact on annual fee therefor, and the right to revoke, cancel and thereafter refuse to reissue such license for failure to comply with or for infractions of regulations promulgated pursuant to this section. The granting of any license may be made dependent upon the holding of a certificate of convenience and necessity issued by the municipality, if such certificates are provided as authorized by paragraph 6 of this section; and
6. Requirement for the holding of a certificate of convenience and necessity as a condition precedent to the issuance and holding of a municipal license for the operation of a taxicab; including the power to issue, deny, suspend and revoke such certificates.

#### SECTION 22-119. REGULATION OF RAILWAY AND FREIGHT OPERATIONS WITHIN MUNICIPAL LIMITS

The municipal governing body may regulate levees, depots, depot grounds, and places of storing freight and goods, and provide for the passage of railways through the streets and public grounds of the municipality. The governing body may also regulate the crossing of railway tracks and the running of railway engines, cars and

trucks within the limits of the municipality, and to govern the speed thereof, and to make provisions, rules and restrictions to prevent accidents at crossings and on the tracks of railways and to prevent fires from engines.

**SECTION 22-120. PUBLIC HEALTH, HOSPITALS AND QUARANTINE**

The municipal governing body may enact and enforce such ordinances, rules and regulations as it deems necessary for the protection of the public health, not inconsistent with state law; and may establish and regulate hospitals, and provide for their operation and support. The governing body may make regulations to prevent the introduction of contagious diseases into the municipality and may enforce quarantine laws within five (5) miles of the municipal limits.

**SECTION 22-121. NUISANCES**

The municipal governing body may declare what shall constitute a nuisance, and provide for the prevention, removal and abatement of nuisances.

**SECTION 22-122. TREES**

The municipal governing body may enact ordinances for the purpose of regulating, planting and maintaining trees in the streets, avenues or public grounds of the municipality. Planting and maintaining trees may also be petitioned for in the manner provided for petitioning sidewalks; and the governing body may make assessments and collect taxes in order to pay for planting and maintaining trees in the manner provided for sidewalk assessments and taxes.

**SECTION 22-123. VAGRANCY**

The municipal governing body may provide by ordinance for the arrest, fine, and imprisonment of vagrants.

**SECTION 22-124. MARKET PLACES--MUNICIPAL BUILDINGS**

The municipal governing body may purchase ground for, erect, establish, operate, and regulate retail or commercial redevelopment projects, market houses, and marketplaces. The governing body may contract with any person, company, or corporation for the erection, operation, and maintenance of such redevelopment projects, market houses, and marketplaces on terms and conditions and in such manner as may be necessary and proper pursuant to the authority granted to it by the Constitution and laws of this state to protect and preserve such projects and markets for the benefit of the municipality and its citizens. The municipal governing body may raise all necessary revenue therefor. The governing body may also provide for the erection and operation of any and all necessary buildings for the municipality. (Amended 11/1/84)

**SECTION 22-125. GIFTS TO INSTITUTIONS IN STATE SYSTEM OF HIGHER EDUCATION**

The municipal governing body may make gifts of any real estate belonging to the municipality to any institution in the Oklahoma State System of Higher Education which is located in the municipality. The municipal governing body may purchase or otherwise acquire real estate for this purpose, execute any instruments necessary for the transfer of real estate, and may give buildings or monies for the construction of buildings to institutions in the state system of higher education. The governing boards of such institutions are hereby authorized to accept these gifts.

**SECTION 22-126. PARTICIPATION IN FEDERAL PROGRAMS**

The municipal governing body may receive funds for and participate in any federal program, and may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and

provided by federal law and regulation. In doing so, a municipality may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, as agent of the federal government, notwithstanding any provisions of state law.

**SECTION 22-127. ESTABLISHING RESIDENCY REQUIREMENTS**

The municipal governing body by ordinance may designate which appointed officers and employees shall reside within the municipality; but police officers, firefighters and other municipal employees need not be actual residents of the municipality where they are employed in municipalities of five thousand (5,000) population or more, according to the latest federal census.

**SECTION 22-128. AUTHORITY FOR PUBLIC IMPROVEMENTS--BORROWING MONEY--BOND ISSUES**

The governing body may provide for making any and all improvements of a general nature in the municipality and may from time to time borrow money and issue bonds for the purpose of paying for such improvements. No such money shall be borrowed or bonds issued until the governing body is instructed to do so by a vote of at least three-fifths of the registered voters voting on the question at any election held in the municipality, unless otherwise provided by the Constitution and laws of Oklahoma. Bonds issued under this section shall be payable not more than twenty-five (25) years from the date of their issue, with interest thereon at a rate not exceeding a maximum rate established by law. The governing body shall provide for taxes to pay the bonds at their maturity, and their interest coupons as they respectively become due. (Amended 7/1/83)

**SECTION 22-129. WARRANTS AGAINST LOTS FOR SPECIAL ASSESSMENTS**

Where municipal improvements of any character are made by special assessments upon the abutting lots, or upon blocks, or where a special assessment may be created by ordinance for the direct benefit of a limited locality in a municipality, the governing body may issue a tax warrant against each separate abutting lot, in the manner provided by law, which shall be a valid lien on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality.

**SECTION 22-130. REASSESSMENTS FOR VOID OR ILLEGAL ASSESSMENTS**

When a municipal governing body has attempted to levy any assessment for improvements which may have been informal, illegal or void for want of sufficient authority or other cause, the governing body of the municipality shall reassess any such assessment in the manner provided by law.

**SECTION 22-131. MUNICIPAL RECORDS--DESTRUCTION, SALE OR DISPOSITION AFTER CERTAIN TIME LIMITATIONS**

A municipal governing body may destroy, sell for salvage or otherwise dispose of the following papers, documents and records after the expiration of the specified period of time following the end of the fiscal year in which the paper, document or record was created, except as otherwise specified:

1. One (1) year: parking citations may be destroyed or otherwise permanently disposed of one (1) year after the date of issuances;
2. Two (2) years: municipal court warrants, water, sewer, garbage and utility receipts and statements, which have been previously audited; inspection records relating to water meters and sewer inspections; miscellaneous petitions and letters addressed to the governing body on matters other than pertaining to the items hereinafter set forth; utility billing ledger or register; utility cash receipts ledger or register; and utility accounts receivable ledger or register. Fire run contracts may be destroyed or otherwise disposed of two (2) years after their expiration;

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

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

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

None of the above-mentioned records, papers or documents pertaining to pending litigation shall be disposed of until such litigation is finally terminated. This section shall not be construed to authorize or allow the destruction of any testing laboratory results or the inspection records of public improvements of a municipality. (Amended 1990)

#### SECTION 22-132. AUTHORITY TO HAVE RECORDS PHOTOGRAPHED OR REPRODUCED ON FILM--ORIGINAL RECORD--STORAGE

A. The head of any municipal department, commission, bureau or board may have any or all records kept by the official, department, commission, bureau or board photographed, microphotographed, photostated, reproduced on film or stored on optical disk. Such film or reproducing material shall be of durable material and the device used to reproduce such records on film or other material shall be such as to accurately reproduce and perpetuate the original records in all details.

B. The photostatic copy, photograph, microphotograph, photographic film or optical disk of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original.

C. Whenever photostatic copies, photographs, microphotographs, reproductions on films or optical disks shall be placed in conveniently accessible files and provisions made for preserving, examining and using same, the head of any municipal department, commission, bureau or board may certify those facts to the municipal governing body. The governing body may, by ordinance or resolution, authorize the disposal, archival storage or destruction of such records and papers. (Amended 1990)

#### SECTION 22-132.1. MUNICIPAL RECORDS--MAINTENANCE AND PROTECTION--AVAILABILITY

Any officer or employee of a municipality having custody of records or other documents of the municipality shall keep and maintain such records in a manner and at a location prescribed by the governing body. Such records shall be available for use by officers and employees of the municipality as the governing body shall direct. The governing body shall establish policies and procedures to preserve and protect the records of the municipality consistent with other provisions of law providing for the confidentiality of such records where appropriate and the accessibility of such records for inspection by the public. (Added 1989)

#### SECTION 22-133. CONTESTING REASONABLENESS OF OIL AND GAS DRILLING FEE

Any person, firm or corporation may contest the reasonableness of any fee imposed pursuant to the provisions of Section 52 of Title 17 of the Oklahoma Statutes, for the issuance of a permit for the drilling and operation of an oil and gas well or the regulation thereof, by filing a petition in the district court of the county where the governing body of such incorporated city or town is located. The court, upon hearing all the facts and circumstances

relating to the imposition of the fee, shall determine the reasonableness of such fee. The court may award attorneys' fees and costs to the prevailing party. (Added 1986)

#### SECTION 22-134. PURCHASING OR ACCOUNTS PAYABLE--APPROVAL BY ELECTRONIC PROCESS

Notwithstanding any other provisions of the Oklahoma Statutes, any municipal document, other than checks, drafts or warrants, relating to purchasing or accounts payable may be approved by the municipality by an electronic process in lieu of a manual process. (Added 1990)

### ARTICLE XXVII

#### COURTS

##### Section:

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## ARTICLE XXVII

### COURTS

#### SECTION 27-101. CREATION OF MUNICIPAL COURT NOT OF RECORD

A municipality may create a Municipal Court, as provided in this article, which shall be a court not of record. This court may be created in addition to a Municipal Criminal Court of Record. References in Sections 27-101 through 27-131 of this title to the municipal court shall mean the municipal court not of record established under the authority of the provisions of this article.

#### SECTION 27-102. RESOLUTION OF GOVERNING BODY

Before a municipal court not of record may be put into operation, the municipal governing body shall determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates putting the court into operation. The governing body shall cause a certified copy of the resolution to be filed in the office of the county clerk of each county in which the municipality is located. The resolution and the filing thereof shall be judicially noticed in all courts of this state. (Amended 1988)

#### SECTION 27-103. JURISDICTION

The municipal court shall have original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of the municipality where the court is established is charged.

#### SECTION 27-104. JUDGES

A. The number of judges for each municipal court shall be determined by the governing body of the municipality where the court is established. The judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the municipal governing body. The judge of any municipal court shall be licensed to practice law in Oklahoma, except as provided in subsections B and C of this section. He shall serve for a term of two (2) years, said term expiring on a date fixed by ordinance, and until his successor is appointed and qualified, unless sooner removed by the vote of a majority of all members of the governing body for such cause as is provided by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term. Except in cities of more than two hundred thousand (200,000) population, nothing herein shall be construed to prevent the judge from engaging in the practice of law in any other court during his tenure of office. The judge shall be paid a salary to be fixed by the municipal governing body. He shall be paid in the same manner as other municipal officials.

B. In any municipality with a population of less than seven thousand five hundred (7,500), the mayor, with the consent of the governing body of the municipality, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county; or
  2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality;
- or

3. Any suitable person residing in the municipality or within twenty (20) miles of the boundaries of the municipality.

The mayor may be designated as judge of the municipal court upon approval of the governing body of the municipality.

C. In any municipality with a population of seven thousand five hundred (7,500) or more, if no attorney licensed to practice law in Oklahoma resides in the county or in an adjacent county in which the municipality is located, who is at the time of appointment willing to accept the appointment as judge, the mayor, with the consent of the governing body of the municipality, may appoint any suitable and proper person as judge.

D. If the judge of the municipal court is not a licensed attorney, the trial shall be to the court, and the court may not impose a fine of more than Fifty Dollars (\$50.00) and may not order the defendant imprisoned except for the nonpayment of fines or costs or both. (Amended, effective 11/1/84)

#### SECTION 27-105. PROHIBITION ON CHANGE OF VENUE--DISQUALIFICATION OF JUDGE

No change of venue shall be allowed from any municipal court, but the judge of the municipal court may be disqualified under the same terms and conditions as are now provided by law for courts of record, and in case of such disqualification a special judge shall be appointed as provided in Section 27-104 of this title.

#### SECTION 27-106. ACTING JUDGE--ALTERNATE JUDGE--COMPENSATION

In the event of disqualification of the judge in a particular case, or his absence or inability to act, the mayor of the municipality may appoint some person, qualified as provided in Section 27-104 of this title, as acting municipal judge of the court in the place of the judge during his absence or inability to act or in a case wherein the judge is disqualified; or, in its discretion, the municipal governing body may provide by ordinance for the appointment of an alternate judge of the court, in the same manner and for the same term as the judge and possessing the qualifications prescribed by Section 27-104 of this title, who shall sit as acting judge of the court in case of the absence, inability or disqualification of the judge. If both the judge and the alternate judge are unable to sit, the mayor may appoint an acting judge as provided in this section. The municipal governing body, by ordinance, shall provide for the compensation of an acting judge of the court.

#### SECTION 27-107. VACANCIES IN OFFICE OF JUDGE

Vacancies in the office of the judge of any municipal court shall be filled in the same manner as provided for the appointment of the judge in the first instance.

#### SECTION 27-108. MUNICIPAL ATTORNEY AS PROSECUTING OFFICER

The municipal attorney of each municipality where a municipal court is established 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. (Amended 11/1/84)

#### SECTION 27-109. CLERK OF COURT--DUTIES

The municipal clerk of any municipality where a municipal court is established, or a deputy designated by him, shall be ex officio the clerk of the municipal court. The clerk 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 27-110. COURT MARSHAL--DUTIES**

The municipal governing body, upon the recommendation of the judge of the municipal court, may designate any appropriate person who is a resident of the municipality to serve as marshal, and in the absence of such a designation, the chief of police or corresponding officer of the municipality shall be ex officio marshal of the court. The marshal shall execute any writs and other process directed to him, except as herein otherwise provided, and such duty may be performed by any deputy marshal or by any members of the police force of the municipality, as the case may be.

**SECTION 27-111. BOND OF CLERK AND JUDGE--FORM**

A. The clerk of each municipal court shall give bond to the governing body of the municipality where the court is established. The bond shall be approved by the governing body and shall be in an amount to be fixed by the governing body. The bond shall be in substance as follows:

I, \_\_\_\_\_, clerk of the Municipal Court of \_\_\_\_\_, State of Oklahoma, and \_\_\_\_\_ and \_\_\_\_\_, his sureties, do jointly and severally agree to pay on demand each and every person who may be entitled thereto, all such sums of money as the said clerk may become liable to pay, on account of any moneys which may come into his hands, by virtue of his office.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signed)

B. The municipal governing body may provide that the judge, the alternate judge, and an acting judge, or any of them, shall give a bond to the governing body of the municipality where the court is established. If a bond is required, it shall be in an amount to be fixed by the governing body. It shall be conditioned in the same manner as the bond that is required of the clerk of the court, and it shall be approved by the governing body.

**SECTION 27-112. FEES, FINES AND FORFEITURES--DISPOSITIONS**

All of the fees, fines, and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make duplicate receipts for the fees, fines, and forfeitures collected by him, one of which shall be retained by the municipal treasurer together with a detailed statement of all costs, the style of the case in which they were paid, and the name of the party paying the same. (Amended 11/1/84)

**SECTION 27-113. PROCEDURE--JUDICIAL NOTICE OF STATUTES AND ORDINANCES--WRITS AND PROCESS**

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 municipality in which it is located. Writs and processes of the court may be issued by the judge or clerk thereof 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 municipality, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the municipality 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). (Amended 1990)

#### SECTION 27-114. RULES FOR CONDUCT OF COURT BUSINESS

The judge of each municipal court may prescribe rules, consistent with the provisions of this article, for the proper conduct of the business of the municipal court.

#### SECTION 27-115. PROSECUTIONS BY VERIFIED COMPLAINT--STYLE

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 or Town) of \_\_\_\_\_ (name the municipality) vs. \_\_\_\_\_ (naming the person or persons charged)." (Amended 11/1/84)

#### SECTION 27-116. ARRAIGNMENT--FINES IN LIEU OF APPEARANCE

The arraignment shall be made by the court. The judge or the prosecuting attorney shall read the complaint to the defendant, inform him of his legal rights and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. The municipal governing body by ordinance may prescribe a schedule of fines which the defendant may pay in lieu of his appearance before the municipal court and such payment shall constitute a final determination of the cause against the defendant.

#### SECTION 27-117. BAIL--RELEASE ON OWN RECOGNIZANCE--TRAFFIC CITATION

A. If a resident of a municipality served by a municipal court is arrested for the violation of any ordinance, traffic or nontraffic, by a law enforcement officer, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it unless it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If said person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled.

B. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any ordinance and is not released by being permitted to sign a citation as provided in subsection A of this section, he shall be admitted to bail either before or after arraignment, or shall be released on his own recognizance.

C. If a nonresident of a municipality served by a municipal court is arrested for a violation of any ordinance other than a traffic violation by a law enforcement officer, the defendant shall be eligible to be admitted to bail either before or after arraignment.

D. A municipality may require a person who is arrested for a municipal traffic violation by a law enforcement officer to comply with the procedures provided by law in Section 1114.1 of Title 22 of the Oklahoma Statutes for state traffic violations with respect to release of the arrested person. The following methods of posting bail shall apply:

1. Posting cash bail; or
2. Depositing with the arresting officer a "guaranteed arrest bond certificate"; or

3. Depositing with the arresting officer a valid license to operate a motor vehicle in exchange for a receipt therefor issued by the arresting officer, which shall be recognized as an operator's license and shall authorize the person's operation of a motor vehicle until the date of his hearing but not to exceed twenty (20) days. This procedure for depositing a valid operator's license shall not be used unless authorized by a duly enacted ordinance. A municipality may prescribe a fine for up to the maximum amount authorized by the courts not of record for failure of a person to have a valid driver's license when charged with a traffic violation.

E. The amount and conditions of bail granted pursuant to the provisions subsections B and C of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release by recognizance. In the event of arrests at night, emergencies, or when the judge is not available, the chief of police or his designated representative may be authorized by the judge subject to such conditions as shall be prescribed by the judge to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not be more than the maximum fine provided for by ordinance for each offense charged. The chief of police or his designated representative is authorized subject to such conditions as shall be prescribed by the judge to release a resident of the municipality on his own recognizance. (Amended 11/1/84)

#### SECTION 27-118. FAILURE TO APPEAR ACCORDING TO TERMS OF BOND--FORFEITURE

If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in court or before the magistrate may be lawfully required, the judge may direct that fact to be entered upon the court minutes, thereby declaring the bond to be forfeited. Without advancing court costs, the judge shall then cause the forfeiture to be certified to the district court in the county where the situs of the municipal government is located, where it shall be entered upon the judgment docket and shall have the full force and effect of a district court judgment. At such time as the forfeiture is entered upon the district court judgment docket, the district court clerk shall proceed in accordance with the provisions of Sections 1330 through 1333 and 1335 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes. Court costs shall be collectible from the proceeds of the bond.

#### SECTION 27-119. JURY TRIALS--QUALIFICATIONS OF JURORS

In all prosecutions in the municipal court for any offense punishable by a fine of more than One Hundred Dollars (\$100.00) or by imprisonment, or by both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14-109 and 14-110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Fifty Dollars (\$50.00). In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court. (Amended, effective 10/1/83)

#### SECTION 27-120. SELECTION AND SUMMONS OF JURORS

Jurors in the municipal court shall be selected under the same terms and conditions as are provided for by law for the district courts. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number of jurors in the same manner as is provided by law for the district court until the number requested, who from their addresses appear to reside within the corporate limits of the municipality,

is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the district court for a stated number of additional jurors if, after allowance of claimed statutory exemptions, the listed number is found to be insufficient. Summons of the prospective jurors shall be issued as set out by ordinance, and may be served in person by the chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail.

#### SECTION 27-121. FEES AND MILEAGE OF JURORS AND WITNESSES

The municipal governing body shall determine by ordinance the fees and mileage that shall be paid to jurors and witnesses in a municipal court. However, no witness fee shall be paid to any police or peace officer. The jury fee and mileage due jurors and witnesses shall be paid as provided by ordinance.

#### SECTION 27-122. ENFORCEMENT OF PAYMENT OF FINES OR COSTS BY IMPRISONMENT--PERSONS UNABLE TO PAY

A. If a defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced:

1. By imprisonment until the same shall be satisfied at the rate of Five Dollars (\$5.00) per day; or
2. In the same manner as is prescribed in subsection B of this section for a defendant who is without means to make such payment.

B. 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 in the county where the situs of the municipal government is located 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. (Amended, effective 11/1/87)

#### SECTION 27-122.1 MUNICIPAL COURTS--SENTENCES--COSTS

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; 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.

B. The judge of the municipal court imposing a judgment and sentence, at his discretion, is empowered to modify, reduce, or suspend or defer the imposition of such sentence or any part 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 said 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.

C. The judge of the municipal court 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.

D. 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.

E. For the purposes of this section, "judge of the municipal court" means a municipal court judge who is licensed to practice law in Oklahoma. (Amended 1990)

#### SECTION 27-122.2 COMMUNITY SERVICE IN LIEU OF FINE OR IN CONJUNCTION WITH IMPRISONMENT--VIOLATION OF COMMUNITY SERVICE CONDITIONS

Whenever a 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. (Amended 1990)

#### SECTION 27-123. SUSPENSION OF JUDGMENT OR COSTS--RECONFINEMENT

Whenever any person shall be convicted in the municipal court of violating a municipal ordinance, the judge trying the cause, after sentence, may suspend the judgment or costs or both and allow the person so convicted to be released upon his own recognizance. Any person so released shall be required to report at such times and to such person or officer as the judge shall direct. The judge may cause a warrant to be issued for any person so released if it shall be made to appear to the judge that such person:

1. Has been guilty of the violation of any law after his release;
2. Is habitually associating with lewd or vicious persons; or
3. Is indulging in vicious habits.

Upon the issuance of the warrant by the judge, the person shall be delivered forthwith to the place of confinement to which he was originally sentenced and shall serve out the full term for which he was originally sentenced.

#### SECTION 27-124. SUPERVISION OF JUVENILES ON PAROLE OR PROBATION

In addition to the duties otherwise provided by law, the judge of each municipal court, or some other person designated by the governing body of the municipality where the court is established, shall be required to supervise all juveniles who are either on parole or serving probation terms or suspended sentences pronounced and adjudged by the municipal court.

#### SECTION 27-125. CONTEMPT OF COURT

The judge of each municipal court shall have power to enforce due obedience to orders, rules and judgments made by him and may fine or imprison for contempt offered to the judge while holding his court or to process issued by him in the same manner and to the some extent as the district courts of Oklahoma.

#### SECTION 27-126. COSTS

The municipal governing body shall determine by ordinance the costs that shall be charged and collected by the clerk of the court, but such costs shall not exceed the sum of Fifteen Dollars (\$15.00) plus the fees and mileage of jurors and witnesses. (Amended 11/1/87)

**SECTION 27-127. PROSECUTION FOR SAME OFFENSE OF ANOTHER COURT PROHIBITED**

When a defendant has been in jeopardy for the same or any lesser included offense in a municipal court, or district court, he shall not be prosecuted in another court for the same or a lesser included offense. (Amended, effective 10/1/80)

**SECTION 27-128. WRITS OF MANDAMUS, PROHIBITION AND CERTIORARI**

The district court in each county wherein a municipal court is established shall have the same jurisdiction to issue to the municipal court writs of mandamus, prohibition and certiorari as the Supreme Court now has to issue such writs to courts of record.

**SECTION 27-129. APPEALS**

A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located, within ten (10) days from the date of the final judgment, a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial if the offense is punishable by a fine of more than One Hundred Dollars (\$100.00) and costs.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on his docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00); except that, if the conviction involved a fine only, the amount of the bond shall be no greater than twice the amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

C. Upon appeal being filed the judge shall within ten (10) days thereafter certify to the clerk of the appellate court the original papers in the case. If the papers have not been certified to the appellate court, the prosecuting attorney shall take the necessary steps to have the papers certified to the appellate court within twenty (20) days of the filing of the notice of appeal, and failure to do so, except for good cause shown, shall be grounds for dismissal of the charge by the appellate court, the cost to be taxed to the municipality. The certificate shall state whether or not the municipal judge hearing the case was a licensed attorney in Oklahoma.

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court. (Amended, effective 10/1/83)

**SECTION 27-130. DISTRICT ATTORNEY TO DEFEND APPEALS IN CERTAIN CASES**

The district attorney, and his assistants, shall defend any appeal from a municipal court in his district that has no municipal attorney who is paid a salary in excess of a rate of Three Thousand Six Hundred Dollars (\$3,600.00) per annum.

**SECTION 27-131. ORDERS RELATIVE TO PROCEDURES AND PRACTICES BY SUPREME COURT**

The Supreme Court is authorized to issue orders of statewide application relative to procedures in and practices before the municipal courts and appeals therefrom, subject to the provisions of this article, and under its general superintending control of all inferior courts, shall have the power and authority by and through the Chief Justice of the Supreme Court, to call annual conferences of the judges of the municipal courts of Oklahoma to consider matters calculated to bring about a speedier and more efficient administration of justice.

**SECTION 27-132. APPEALS FROM DISTRICT COURT**

An appeal may be taken to the Court of Criminal Appeals from the final judgment or order of a district court in an appeal from a final judgment of a municipal court in the same manner and to the same extent that appeals are taken from a district court to the Court of Criminal Appeals.