

**ORDINANCE NO. 2022-\_\_\_\_\_**

**AN ORDINANCE TO ADOPT THE MUNICIPAL CODE AS CODIFIED BY  
MUNICODE AS OF SEPTEMBER 21, 2021**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRAIRIE  
GROVE, ARKANSAS, THAT:**

Section One: Title. This Ordinance shall be known as the 2022 Codification Adoption Ordinance.

Section Two: Purpose. The City has hired Municode to develop a new codification of the City's Municipal Code. Municode has developed such a municipal code, attached hereto, covering ordinances adopted through September 21, 2021.

Section Three: Municipal Code Adopted. The City Council hereby adopts the attached codification of the City's Municipal Code effective through ordinances adopted through September 21, 2021.

Section Four: Effective Date. This Ordinance shall become effective 60 days following its posting unless an Emergency Clause is affixed hereto.

Section Five: Repealing Clause. Ordinances or parts thereof in force at the time that this ordinance shall take effect that are in conflict herewith, are hereby repealed.

Section Six: Saving Clause. Nothing herein shall be deemed to affect any rights or obligations existing at the time of the passage of this ordinance.

Section Seven: Severability Clause. In the event any portion of this ordinance is declared inoperative or invalid as a result of a statute or judicial decision, then only that portion expressly so declared to be inoperative or invalid

shall be affected thereby and all other provisions hereof shall remain in full force and effect.

Approved this 19th day of September 2022.

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Charles (Sonny) Hudson, Mayor

(Attest)

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Christine Kelly, Clerk

**CODE OF ORDINANCES  
CITY OF  
PRAIRIE GROVE, ARKANSAS**

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Published in 2022 by Order of the City Council

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**CURRENT OFFICIALS**

of the  
CITY OF  
PRAIRIE GROVE, ARKANSAS

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Sonny Hudson

*Mayor*

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Rick Ault

Ray Carson

Rick Clayton

Tony Cunningham

Brea Gragg

Chris Powell

Marquita Smith

Doug Stumbaugh

*Aldermen/City Council*

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Christine Kelly

*City Clerk*

PREFACE

This Code constitutes a republication of the general and permanent ordinances of the City of Prairie Grove, Arkansas.

Source materials used in the preparation of the Code were the City Code, as supplemented through September 2021, and ordinances subsequently adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative table appearing in the back of this Code, the reader can locate any section of the Code, as supplemented, and any subsequent ordinance included herein.

The Code has been arranged into titles, chapters and sections. The various sections within each chapter have been catchlined to facilitate usage. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

*Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a title of the Code, the number to the left of the colon indicates the number of the title. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	T1:1
CODE COMPARATIVE TABLE	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	IX:1

*Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

*Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

*Acknowledgments*

This publication was under the direct supervision of Regina Sosinski, Editor, of Municode, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Larry Oelrich, Chief of Staff, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

*Copyright*

All editorial enhancements of this Code are copyrighted by Municode and the City of Prairie Grove, Arkansas. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municode and the City of Prairie Grove, Arkansas.

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# TITLE 1

## GENERAL PROVISIONS

### CHAPTER 1.04 HOW CODE DESIGNATED AND CITED

#### 1.04.01. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "Prairie Grove Municipal Code", and may be so cited.

State law reference(s)—A.C.A. 14-55-701 et seq.

### CHAPTER 1.08 RULES OF CONSTRUCTION

#### 1.08.01. Rules of construction.

In the construction of this Code, and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council.

*City.* The words "the city" or "this city" shall mean the City of Prairie Grove, Arkansas.

*City council.* Whenever the words "city council" or "council" are used they shall be construed to mean the City Council of the City of Prairie Grove, Arkansas.

*County.* The words "the county" or "this county" shall mean the County of Washington, Arkansas.

*Gender.* A word importing a single gender only shall extend and be applied to all persons, firms, partnerships, and corporations.

*Municipality.* The words "the municipality" or "this municipality" shall mean the City of Prairie Grove.

*Number.* Words used in the singular include the plural, and the plural includes the singular number.

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

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

*Other city officials or officers.* Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., recorder/treasurer, police chief, etc., they shall be deemed to refer to the officials, boards, commissions and departments of the City of Prairie Grove.

*Person.* The word "person" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

*State.* The words "the state" or "this state" shall be construed to mean the State of Arkansas.

*Tense.* Words used in the past or present tense include the future as well as the past or present.

### CHAPTER 1.12 SUBHEADINGS OF SECTIONS

#### 1.12.01. Subheadings of sections.

The subheadings of sections of this Code which are bolded, are intended merely to indicate the contents of the section and shall not be deemed or taken to be title of such sections, nor as any part of the section, nor unless

expressly so provided, shall they be so deemed when any of such sections, including the subheadings, are amended or reenacted.

## **CHAPTER 1.16 EFFECT OF REPEAL OF ORDINANCES**

### **1.16.01. Effect of repeal of ordinances.**

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

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

## **CHAPTER 1.20 SEVERABILITY OF PARTS OF CODE**

### **1.20.01. Severability of parts of Code.**

It is hereby declared to be the intention of the city council that the titles, chapters, sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, chapter, title, or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, chapters, titles and sections of this Code.

## **CHAPTER 1.24 AMENDMENTS TO CODE**

### **1.24.01. Amendments to Code.**

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

Amendment to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Prairie Grove Municipal Code is hereby amended to read as follows: . . ." The new provisions shall then be set out in full.

In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Prairie Grove Municipal Code is hereby amended by adding a section (or title or chapter) to be numbered \_\_\_\_\_, which said section (or title or chapter) reads as follows: . . ." The new provisions shall then be set out in full.

All sections, titles, chapters or provisions desired to be repealed must be specifically repealed by section, title, or chapter number, as the case may be.

## **CHAPTER 1.28 ALTERING CODE**

### **1.28.01. Altering Code.**

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except by ordinance of the city council, which shall cause the law of the city to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1.32.01 hereof.

## **CHAPTER 1.32 GENERAL PENALTY**

### **1.32.01. General penalty.**

Whenever in this Municipal Code, the doing of any act or the omission to do any act or duty, is declared unlawful, and further, the amount of the fine shall not be fixed and no penalty declared, any person convicted for a violation of such provision of this Code, shall be adjudged to pay a fine of not more than \$500.00 and if the act is continuous, not more than \$250.00 for each day of continuance. Provided, for any offense committed against the Code, for which there is set forth by state law a similar offense, the penalty therefore shall be no less nor greater than that set forth by state law, and provided further, that the commission of any act declared to be unlawful shall be deemed to be a misdemeanor.

State law reference(s)—A.C.A. 14-55-501 et seq.

## **CHAPTER 1.36 REFERENDUM PETITIONS**

### **1.36.01. Filing date.**

All referendum petitions under Amendment 7 to the Constitution of the State of Arkansas, must be filed with the city clerk within 60 days after the passage of such ordinance, in accordance with A.C.A. 14-55-304.

### **1.36.02. Notice of filing.**

Whenever any referendum petition is filed, the city council shall give notice by publication for one insertion of a time not less than five days after the publication of such notice at which they will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners, or such will be determined in a case of contrary by three disinterested citizens appointed by the mayor. At the time named the city council shall meet and hear all who wish to be heard on the question, and its decision shall be final, unless suit is brought in the chancery court of the county within 30 days to review its action.

### **1.36.03. Special election.**

If the city council finds that such petition is signed by the requisite number of petitioners, it may order a special election or place the question on the ballot at the next municipal general election to determine by vote of the qualified electors whether the ordinance shall stand or be revoked. The date for any special election shall not be less than ten days after the order therefore has been named by the council and the special election shall be had and conducted as general municipal elections held in the city.

### **1.36.04. Expunction of defeated ordinance.**

If any ordinance referred to the people is defeated at the polls, the city council shall make a note of such fact and shall expunge such ordinance from its files by erasing the same with red ink.

State law reference(s)—Const., Amend. 7, and A.C.A. 14-55-301.

## **CHAPTER 1.40 POSTING OF ORDINANCES**

### **1.40.01. Posting.**

All ordinances passed by the city council shall be posted in the following public locations:

- A. City courts building;
- B. City water department;
- C. City library;

D. City children's library;

E. Public kiosk at the city tennis courts.

Such posting shall be the official means of public notice pursuant to A.C.A. 14-55-206.

(Ord. No. 2016-14, § 2)

## **TITLE 2**

### **CLASSIFICATION, ADMINISTRATION AND PERSONNEL**

#### **CHAPTER 2.04 CITY CLASSIFICATION**

##### **2.04.01. Operation as first class city.**

That from and after the passage of the ordinance from which this section is derived, the City of Prairie Grove, Arkansas, shall be a first class city, as provided by the laws of the state, and shall enjoy all of the rights, powers, privileges, benefits and duties provided for cities of the first class under the laws of the state.

(Ord. No. 98-23, § 1)

#### **CHAPTER 2.08 CITY AND WARD BOUNDARIES**

##### **2.08.01. Redistricting of wards**

Cities have an obligation and a responsibility to insure that wards are of substantially equal population, and as a result of certain annexation initiatives, several areas have been incorporated into the city limits. The residents in the newly annexed areas need to be assigned to voting wards. Arkansas law vests city councils with apportionment and redistricting authority and the staff of the Northwest Arkansas Regional Planning Commission.

- A. Has conducted a demographic analysis of the city's wards;
- B. Has recommended that redistricting be undertaken; and
- C. Has prepared a redistricting plan for consideration.

(Ord. No. 2014-17, § 3)

##### **2.08.02. Reapportioning wards.**

The city council believes it is in the best interest of the city and the voting rights of its citizens to reapportion the wards at this time and therefore, it is the desire of the city council that the ward redistricting plan, as recommended, be approved. The ward redistricting plan, depicted on the map attached hereto as exhibit A and made a part hereof, be and is hereby adopted with said map to serve beginning immediately as the official ward map for the city.

(Ord. No. 2014-17, § 4)

#### **CHAPTER 2.12 CITY COUNCIL**

##### **2.12.01. Council meetings—Regular.**

All regular meetings of the council shall be held at the municipal building on the third Monday of each month.

##### **2.12.02. Council meetings—Special.**

Special meetings of the council may be held upon the call of the mayor, whenever, in his opinion, it shall be necessary or upon request of three members of the council by giving at least three days' notice of such special

meeting, by giving notice in writing which notice shall be served personally or through the mails, to all members of the council, which notice shall state the time of the meeting and purpose thereof.

State law reference(s)—A.C.A. 14-43-502.

### **2.12.03. Compensation for aldermen.**

Each council member shall be paid at a rate of \$100.00 for each regular council meeting they attend. Each council member shall be paid at the rate of \$50.00 for each special council meeting or committee meeting they attend.

(Ord. No. 2020-11, § 2)

### **2.12.04. Compensation of the mayor.**

- A. The rate of compensation to be paid the mayor for the performance of elected duties shall be \$60,000.00 per year.
- B. The city shall pay the premiums for coverage of the mayor under the city's health insurance policy.

(Ord. No. 2013-3, § 2; Ord. No. 2021-02, § 2)

### **2.12.05. Aldermen serve four-year terms.**

Aldermen shall serve staggered four-year terms, pursuant to A.C.A. 14-43-312 as follows:

- A. Aldermen in position 1 of each ward shall serve four-year terms beginning the 2014 general election and every four years thereafter.
- B. Aldermen in position 2 of each ward shall serve four-year terms beginning with the 2016 general election and every four years thereafter.

(Ord. No. 2012-14, § 3)

## **CHAPTER 2.16 CITY CLERK**

### **2.16.01. City clerk.**

The city clerk shall be elected pursuant to A.C.A. 14-43-316(a).

(Ord. No. 2012-13, § 2)

### **2.16.02. Duties.**

The city clerk shall have the custody of all the laws and ordinances of the city and shall keep a regular and correct journal of the proceedings of the city council, pursuant to A.C.A. 14-43-506(a), as may be amended from time to time.

(Ord. No. 2012-13, § 2)

### **2.16.03. Record.**

- A. The city clerk shall establish a systematic method of recording each regular and special council meeting, and all committee meetings, and shall keep a record of attendance by each council member and the mayor from which compensation of the members can be computed for payment.
- B. Record keeping shall be in accordance with applicable statutes, ordinances, rules and recommendations of auditors.

(Ord. No. 2012-13, § 2)

#### **2.16.04. Compensation.**

The city clerk shall be compensated at an annual rate of \$1,200.00 which shall be paid in 12 equal, monthly increments, subject to proper withholdings as an employee of the city.

(Ord. No. 2012-13, § 2)

## **CHAPTER 2.18 CITY TREASURER**

#### **2.18.01. City treasurer.**

The city treasurer shall not be elected, but shall be an appointed position with a term of four years, pursuant to A.C.A. 14-43-405(a)(1).

(Ord. No. 2012-13, § 3)

#### **2.18.02. Appointment.**

The mayor shall recommend an individual to serve as city treasurer to the city council. Any such person appointed must be a qualified elector of the city. A majority of the number of members of the city council shall be required to approve such recommendation. The person serving as city clerk may be, but is not required to be, appointed to also act as city treasurer, pursuant to A.C.A. 14-43-405(a)(2).

(Ord. No. 2012-13, § 3)

#### **2.18.03. Removal.**

The person appointed as city treasurer may be removed on the recommendation of the mayor, with a concurrence by a majority of the number of members of the city council. Alternately, the person appointed as city treasurer may be removed by a three-fifths' vote of the number of members of the city council.

(Ord. No. 2012-13, § 3)

#### **2.18.04. Duties.**

- A. The city treasurer shall be required to submit quarterly a full report and a detailed statement of the financial condition of the city, pursuant to A.C.A. 14-43-506(b). This report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city. The report shall be submitted to the council in open session.
- B. The city treasurer shall and is hereby directed to pay themselves, the aldermen, the mayor, the city clerk and other officers from the Prairie Grove General Fund, the compensation stated in the Prairie Grove Municipal Code.
- C. The city treasurer shall be responsible for maintaining appropriate records of income, expenditures, assets and liabilities for all the funds of the city.
- D. Payments, bookkeeping and accounting practices shall be in accordance with applicable statutes, ordinances, rules and recommendations of auditors.

(Ord. No. 2012-13, § 3)

### **2.18.05. Compensation.**

The city treasurer shall be compensated at an annual rate of \$600.00 which shall be paid in 12 equal, monthly increments, subject to proper withholdings as an employee of the city.

(Ord. No. 2012-13, § 3)

## **CHAPTER 2.20 DISTRICT COURT**

### **2.20.01. Created.**

Effective July 1, 1976, there is created a district court in the city. The court shall be styled the "Washington County District Court - Prairie Grove Department" and shall have all power, authority and jurisdiction prescribed by law for other district courts in this state.

### **2.20.02. Qualifications of judge.**

The judge of the district court created herein shall be at least 25 years of age, of good moral character, an attorney licensed to practice law in the state and a qualified elector of the county. The person first selected to hold the office of district judge in the court shall be appointed by the governing body of the city for a term to begin on July 1, 1976, and to expire on December 31, 1976. At the general election in 1976, and each four years thereafter, the qualified electors of the county shall elect the judge of the city district court for a term of four years. If no qualified person is a candidate for the office of district judge in the city at the 1976 general election or at any succeeding general elections at which the judge of said court would be elected or if there is a vacancy in such office for any other reason, the vacancy shall be filled by the governing body of the city.

### **2.20.03. Salary.**

- A. The judge of the district court of the city and such clerks as are selected shall receive an annual salary in such amount as is fixed by the general assembly.
- B. The city council may, from time to time, hire such additional clerical persons as are necessary to meet the needs of the court.
- C. The salaries of the judge and the clerks of the district court of the city shall be paid in equal monthly installments and such salaries and other necessary expenses shall be paid in the manner required by law.

(Ord. No. 1988-4, § 1)

### **2.20.04. Court costs levied.**

- A. From and after the date of passage hereof, there is levied, as allowed by A.C.A. 27-50-401, an additional court cost of \$3.00 on all moving traffic violations and criminal law violations reflecting convictions in the Prairie Grove District Code.
- B. From and after the effective date hereof, there shall be levied a charge in the amount of \$1.00 as authorized by Act 904 of 1981, on each misdemeanor violation and violation of a municipal ordinance.
- C. All funds collected hereunder shall be disbursed to the city treasurer for deposit in the district clerk's retirement fund and shall be used for no purpose other than the accrual of a fund for financing retirement of the district court clerk and payment of such sums as are required by law.

(Ord. No. 1988-15, § 1)

### **2.20.05. Funds to be held by recorder/treasurer.**

All such funds collected shall be held by the recorder/treasurer and disbursed in such a fashion as to obtain and maintain participation in the Local Police and Fire Retirement System (LOPFI).

(Ord. No. 1988-15, § 2)

### **2.20.06. Cost levied for police pension.**

There is hereby levied to be collected along with other court costs in the city district court a \$3.00 penalty as authorized by Act 904 of 1991, a penalty of \$3.00 on each conviction, forfeitures of bond and plea of guilty or nolo contendere in convictions, findings of guilty or bond forfeitures associated with misdemeanor criminal cases, traffic violations and violations of municipal ordinances. The clerk of the court is directed to remit such funds collected in the manner required by law.

### **2.20.07. Probation fees established.**

From and after the effective date hereof the following probation fees may be levied by the city district court:

- A. Supervised probation: \$50.00.
- B. Unsupervised probation: \$25.00.

In instances where one person pleads guilty or is found guilty to more than one offense, only one probation fee shall be assessed.

(Ord. No. 2005-25, § 1-2)

### **2.20.08. Installment payment allocation.**

From and after the effective date of the ordinance from which this section is derived, all moneys collected through installment payments made by persons convicted of violations and misdemeanors in the district court shall be allocated first to restitution, then evenly (50 percent/50 percent) to court costs and fines until one category is paid in full, then wholly toward the unpaid category.

(Ord. No. 2012-26, § 2)

### **2.20.09. Collection of fines.**

The city hereby designates the district court clerk's office as the city office primarily responsible for the collection of fines assessed in the city district court, city department, pursuant to A.C.A. 16-13-709.

(Ord. No. 2014-13, § 2)

## **CHAPTER 2.21 CRIMINAL JUSTICE FUND**

### **2.21.01. Fee levied.**

Under the authority of Act 860 of 1983, there is hereby levied and shall be collected from each defendant upon plea or guilty, nolo contendere, forfeiture of bond or determination of guilty of misdemeanors or traffic violations in the district court of the city the sum of \$5.00.

(Ord. No. 83-5, § 1)

### **2.21.02. Criminal justice fund established.**

The monies collected by the levy of this court cost shall be deposited in the district court account until monthly settlement is made for court costs and money collected in this levy shall then be deposited into a bank account known as the "Criminal Justice Fund of the City of Prairie Grove" and such notices shall be used for reimbursing the county for expenses incurred in incarcerating city prisoners or for such other purposes as are allowed by law.

(Ord. No. 88-6, § 1)

### **2.21.03. Court cost levied.**

From and after the date of passage hereof, there is hereby levied under the authority of A.C.A. 22-706-9, a court cost of \$3.00 per case processed through the city district court to finance operational costs for the administration of justice.

(Ord. No. 86-1, § 1)

### **2.21.04. Court cost levied.**

From and after the date of passage hereof, there is hereby levied a court cost of \$25.00 per intoximeter test administered in connection with any conviction for any offense in the city district court.

(Ord. No. 95-6, § 1)

### **2.21.05. Duties of city treasurer.**

The city district court clerk shall add to the court costs following each conviction for which an authorized blood alcohol testing device was used, the sum of \$25.00 and periodically shall pay all such sums to an account designated by the city treasurer. The city treasurer is authorized to pay such amounts, upon receipt of a valid bill or statement, to the police department or other enforcement agency which administered the test.

(Ord. No. 95-6, § 2)

### **2.21.06. Appropriation made.**

From and after the effective date of the ordinance from which this section is derived, the sum of \$444.45 should be and is hereby appropriated from appropriate funds of the city or from the general fund of the city for the purpose of matching a grant available through the department of finance and administration from the justice bureau, justice assistance, through the local law enforcement block grants program for the purpose of matching a \$4,000.00 grant through the city police department.

(Ord. No. 97-18, § 1)

## **CHAPTER 2.24 CITY ATTORNEY**

### **2.24.01. Appointment.**

The city council recognizes that the position of city attorney is elective, unless no one seeks election to the position. In the event no qualified person seeks election, the office of city attorney shall be filled by appointment by the mayor and confirmation by the city council to a term equal to the term of the mayor. The occupant of the office can be removed by the mayor for cause upon approval of the city council.

(Ord. No. 2004-30, § 2)

### **2.24.02. Duties.**

The elected city attorney shall, at the direction of the mayor, draft all mayoral proclamations.

(Ord. No. 2010-15, § 1)

### **2.24.03. Compensation.**

The elected city attorney shall be paid a salary of \$100.00 per year for such services. In the event that the office is vacant, the city may contract for such services.

(Ord. No. 2010-15, § 1)

### **2.24.04. Other legal services.**

All other legal services shall be procured through a contractual arrangement with one or more legal service providers.

(Ord. No. 2010-15, § 2)

### **2.24.05. Fees not a basis for compensation.**

The city council hereby expressly declares that any costs or fees generated by the work of any attorney performing work for the city shall not be and are not a basis for compensation.

(Ord. No. 2010-15, § 3)

## **CHAPTER 2.28 FIRE DEPARTMENT**

### **2.28.01. Personnel.**

The fire department of the city shall consist of a fire chief and such paid and volunteer firefighters as authorized and required from time to time.

(Ord. No. 2014-15, § 2)

### **2.28.02. Appointment.**

- A. The fire chief shall be appointed and removed by the mayor. Pursuant to A.C.A. 14-42-110, the city council may, by a two-thirds vote of the majority of the total membership of the council, override the mayor's action.
- B. The fire chief shall appoint each paid firefighter and volunteer firefighter.

(Ord. No. 2014-15, § 2)

### **2.28.03. Duties of fire chief.**

The fire chief shall be the head of the department and shall be fully responsible for operation of the department and the equipment of the department. They shall be responsible for the hiring, firing, discipline and training of all paid and volunteer firefighters. They shall make periodic reports to the city council as required.

(Ord. No. 2014-15, § 2)

#### **2.28.04. Volunteer firefighters.**

Volunteer firefighters shall receive a reimbursement based on the number and types of calls to which they respond. The fire chief shall maintain an accurate roster of all volunteer firefighters.

(Ord. No. 2014-15, § 2)

#### **2.28.05. Use of equipment outside the city.**

The firefighting equipment of the city along with city firefighters may be used to assist with the fighting of fires outside the city limits at the discretion of the fire chief and in accordance with any joint response agreements.

(Ord. No. 2014-15, § 2)

### **CHAPTER 2.32 POLICE DEPARTMENT**

#### **2.32.01. Established.**

There is hereby established the police department of the city, which shall consist of the chief of police and such police officers as the council shall prescribe by resolution. They shall receive such compensation as shall be determined by resolution, appropriation or approved salary schedule and such compensation shall be in lieu of all special fees, rewards or remuneration arising from such police service.

(Ord. No. 2003-13, § 1)

#### **2.32.02. Organization.**

- A. The chief of police shall be the chief executive officer of the department and shall have direct control and management of the members of the department in the lawful exercise of their duties. He shall be responsible for the maintenance of order, the enforcement of laws, ordinances and regulations of the city, the prevention of crime, and the protection of life and property. In case of the absence or disability of the chief, the mayor shall designate a police officer to be acting chief and such chief shall perform the duties and exercise the power and authority of the chief, but shall be entitled to no additional salary.
- B. The chief of police and each officer shall perform such duties as may be required by law, ordinance or city regulation. Each member of the department shall give such assistance as is necessary to any other city department or city employee.
- C. The chief of police and each permanent police officer shall devote full time to police department duties and shall not engage in any other business, profession or occupation, either directly or indirectly, unless approved by the mayor in the case of the police chief and by the chief in the case of an officer.

(Ord. No. 03-13, § 2)

#### **2.32.03. Chief of police—Duties and responsibilities.**

- A. The chief of police shall adopt written internal rules and regulations for the government, discipline, equipment and uniforms of police officers, fixing their duties, and prescribing penalties for violation of any such rules and regulations.
- B. The chief of police shall have custody, care and control of the public property and equipment of the police department, subject to the directions of the mayor and the city council. He shall conduct periodic surveys of such property and equipment, arrange for the salvaging of discarded or impaired items, and submit recommendations as to future needs.

- C. It shall be the duty of the chief of police to keep an accurate and complete record of all complaints, arrests, traffic violations, convictions, and the disposition of each case handled by the department. The chief shall also keep a record of the accomplishments and performances of each police officer.
- D. The chief of police, shall immediately following the end of each calendar month, submit to the city council a written report on all activities and transactions of the department during the month. He shall also submit a report at the end of each calendar year. He shall include either in the annual report, or with the proposed departmental budget for the ensuing year, such recommendations as he/she shall deem advisable with respect to departmental organization, personnel, or equipment.
- E. All funds arising out of police department operations that may be collected by any member of the department shall be disbursed and accounted for as provided by law.

(Ord. No. 2003-13, § 3)

#### **2.32.04. Duties of officers.**

Each member shall perform such duties as he/she is directed within the scope of section 2.32.02(A). Each member of the police department shall wear a suitable badge, to be furnished by the city, and every member of the police department shall, while on duty, wear a uniform which shall comply with the rules and regulations. The chief may issue written orders authorizing the performance of a specific duty while not in uniform. Any member of the department who shall lose or destroy such badge or other property furnished by the city shall be required to pay the cost of replacement. Whenever any member shall terminate membership in the department, he/she shall immediately deliver his/her badge and all other city property in his/her possession, to the chief of police and all sums due said member shall be withheld pending final settlement.

(Ord. No. 2003-13, § 4)

#### **2.32.05. Appointment.**

- A. The chief of police shall be appointed and removed by the mayor. Pursuant to A.C.A. 14-42-110, the city council may, by a two-thirds vote of the majority of the total membership of the council, override the mayor's action.
- B. The chief of police shall appoint each police officer.
- C. Whenever a vacancy shall occur in the position of chief of police and the mayor determines no suitable replacement exists within the department, a public advertisement shall be placed in a newspaper of general circulation of the vacancy. The mayor shall conduct the examination of the applicants and make the appointment.
- D. Whenever a vacancy shall occur in the position of police officer and no eligible list exists for the position the chief of police will give public notice of the vacancy. This shall be given by placing an advertisement in a newspaper having general circulation within the county or state. This chief of police shall conduct examinations and background investigations of applicants for the vacancy.

(Ord. No. 2014-10, § 2)

#### **2.32.06. Qualifications.**

Each applicant for the position of chief of police or police officer shall meet such minimum standards as are required by the Arkansas Commission on Law Enforcement Standards, or its successor in authority; provided, that no person shall be eligible for consideration or continuation in employment who is less than 21 years of age.

(Ord. No. 03-13, § 6)

### **2.32.07. Grading, recommendation and appointment.**

- A. Upon completion of the examination and investigation procedure, an eligibility list of the three highest ranking persons will be made. Such list shall be effective for one year from the date it was prepared. The appointment will be made from this list. Should another vacancy occur within the one year period, an appointment can be made from this list. However, if the mayor, in the case of a vacancy for chief of police, or the chief in the vacancy for police officer feel that there are no qualified persons on the list, may advertise the vacancy and for a new list.
- B. Each appointment by the police chief of a member of the department and each appointment by the mayor of a chief of police shall be probationary for a period of one year, provided, that such probationary appointment shall be subject to approval of the city council in the manner provided in the city's personnel policy. During such period of probationary employment, each appointee shall possess all authority of the position to which he/she has been appointed. Any such probationary appointment may be terminated by the mayor in the case of a police chief or by the police chief in the case of a police officer.

(Ord. No. 03-13, § 2)

### **2.32.08. Special requirement of physical fitness.**

At any time, but not more than once in any calendar year, the mayor may require in the case of the police chief and the police chief in the case of a police officer any member of the department to file a medical certificate reflecting a condition of health medically suitable for continuation of employment. If such certificate shall disclose the department member is for any other than a temporary reason not physically qualified for police duty, the position of such individual in the police department shall be automatically vacated. Such individual, within 15 days after the filing of such certificate, may demand that he/she be permitted to submit contrary medical certificates. The decision of the majority of three physicians shall prevail.

(Ord. No. 03-13, § 8)

### **2.32.09. Disciplinary actions and procedures.**

- A. Each member of the department shall be subject to suspension without pay for a period not to exceed 30 days; to demotion or removal from office or employment for misconduct, incompetency, inefficiency, cowardice, failure to perform duties or observe rules and regulations, subject to the grievance process.
- B. Such action shall be taken by the mayor in the case of the chief of police, or by the chief of police in the case of another member of the department.
- C. In all cases, the grievance process set out in the policy manual of the police department, as it may be amended from time to time, shall govern all employee grievances.

(Ord. No. 03-13, § 9)

### **2.32.10. Emergency provision.**

The mayor may, in the case of riot or other emergency, appoint for a specified term as many special policemen as may be necessary. During such term, such special policemen shall possess only those powers and perform those duties as shall be specifically assigned to him/her by the chief of police. Such term of appointment shall expire not more than one week following the termination of any riot or other emergency.

(Ord. No. 03-13, § 10)

### **2.32.11. Fees for non-emergency services.**

- A. From and after the effective date hereof, the following fees are declared to be reasonable charges for the specifically enumerated non-emergency services rendered by the city police department to the public:

1. Preparation and copying of accident reports: \$10.00.
2. Copying of complaints: \$5.00.
3. Checks of driving and criminal record: \$10.00.

Provided, however, that no such charge shall be assessed when the same is requested by another municipal department of the city.

- B. The police chief or his/her designated representative is authorized to collect such fees for deposit to the general fund.

(Ord. No. 03-13, § 11)

## **CHAPTER 2.36 UNCLAIMED PROPERTY**

### **2.36.01. Disposal.**

The police chief under the direction hereinafter set out is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the city court with the exception of confiscated liquor.

State law reference(s)—For procedure relating to liquor, see A.C.A. 48-926—48-929.1.

### **2.36.02. Sale.**

All unclaimed personal property coming into the hands of the police chief will be held by the police chief for a period of six weeks or longer and the police chief if property remains unclaimed, shall periodically advertise such property in some newspaper of general circulation in the city once each week for three consecutive weeks setting forth in notice the time for the sale which shall not be earlier than five days after the last publishing of the notice nor later than ten days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The police chief shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

### **2.36.03. Proceeds of sale to owner.**

The police chief shall deposit the receipt from the aforesaid sale of unclaimed property in the city treasury and the city treasurer is to keep these funds in a special account for a period of six months and any person identifying as his own any of such property within the six month period shall upon the presentation of satisfactory proof be paid by city warrant out of the special account the amount of which the property is sold. The police chief or some person designated by him shall keep in a well-bound book an accurate record and description of each piece of unclaimed property passing through the police chief's office and the price for which it was sold and the date, the name and address of those who purchased same, as well as a complete record of those who identified and claimed any of the property before it is sold.

### **2.36.04. Proceeds remaining after six months.**

All proceeds from the sale remaining in the special fund for a period of six months shall by the city treasurer be transferred to the city's general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

## **CHAPTER 2.44 SOCIAL SECURITY COVERAGE**

### **2.44.01. Contract.**

The mayor and the city clerk of the city are hereby authorized and directed to enter into an agreement with the state for the purpose of obtaining insurance coverage for the employees of the city under the terms and provisions of the said Social Security Coverage Act.

(Ord. No. 157-65, § 1)

### **2.44.02. Withholding taxes from wages.**

That each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the said Social Security Coverage Act.

(Ord. No. 157-65, § 2)

### **2.44.03. Matching funds.**

That there is hereby appropriated each respective, appropriate fund of the city from which employees are paid wages and salaries within the meaning of the Social Security Coverage Act, whatever sum is necessary to pay the city's portion of the insurance tax in accordance with the terms and provisions of the said Social Security Coverage Act as the same may be changed from time to time.

(Ord. No. 1988-5, § 1)

## **CHAPTER 2.48 LIBRARY**

### **2.48.01. Public library established.**

From and after effective date hereof, there shall be established within the city a public library as is authorized by A.C.A. 13-2-501.

(Ord. No. 98-24, § 1)

### **2.48.02. Library board of trustees established.**

There is hereby established a board of trustees for the public library to be selected in the manner set out in A.C.A. 13-2-501. The board of trustees shall consist of five trustees to be selected and serve such initial terms as are authorized by law.

(Ord. No. 98-24, Secs. 2, 3)

### **2.48.03. Prohibited conduct.**

- A. It shall be unlawful for any person or persons to injure or to fail to return to the public library of the city, after written demand therefore mailed to the last known address of such person or persons, any book, periodical or property belonging to or held for lending by the library. Said written demand shall state that demand is being made pursuant to the authority contained in this chapter and that failure to return the book, periodical or property specified within ten days from the date shown on said written demand, shall be considered a violation of this chapter resulting in prosecuting thereof;
- B. Whether the damaged, injured or missing book is owned by the city library board, the City of Prairie Grove or the Ozarks Regional Library System, shall not be a defense to a prosecution under this chapter.

(Ord. No. 1988-14, § 1)

#### **2.48.04. Penalty.**

Any person violating the provisions of this chapter shall upon conviction of same be guilty of a misdemeanor and shall be fined in an amount not less than \$25.00 nor more than \$100.00.

(Ord. No. 1988-14, § 2)

#### **2.48.05. Existing fine system unaffected.**

Nothing herein shall be construed as in any way affecting or terminating the system of civil fines and administration sanctions now or hereafter employed by said library in connection with its program of lending books, periodicals and other property, but shall be supplementary thereto.

(Ord. No. 1988-14, § 3)

### **CHAPTER 2.52 CONTROLLED SUBSTANCES AND ALCOHOL TESTING**

#### **2.52.01. Personnel policies revised.**

That all personnel policies of the city are hereby revised and amended to incorporate the 1994 DOT Final Rules. A copy of said rules is attached hereto and by reference is incorporated herein in its entirety as if restated word for word.

(Ord. No. 95-14, § 1)

#### **2.52.02. Application to commercial driver's license holders.**

This chapter specifically amends any personnel policy providing for conditions of employment for employees whose duties require them to maintain a commercial driver's license in order to lawfully carry out their duties.

(Ord. No. 95-14, § 2)

#### **2.52.03. Repealing clause.**

Any ordinance, resolution, rule, regulation or part of any ordinance, resolution, rule, regulation now in effect which conflicts herewith is hereby repealed.

(Ord. No. 95-14, § 3)

#### **2.52.04. Regulation authorized.**

The administrative assistant is hereby directed to establish procedures to ensure compliance with the rules, including the assignment of a designated representative responsible for the execution of the procedures.

(Ord. No. 95-14, § 4)

#### **2.52.05. Control of testing facility.**

Any laboratory, medical review officer, substance abuse professional or any other professional who receives payment for testing, evaluating, record-keeping, or other services mandated by the rules must be qualified according to the rules and must perform such services in conformance with 49 CFR Part 40 and Part 382.

(Ord. No. 95-14, § 5)

### **2.52.06. Testing authorized.**

Drug and alcohol testing will be administered to those employees mandated by the rules, in the circumstances and in the manner mandated by the rules.

(Ord. No. 95-14, § 6)

### **2.52.07. Penalty.**

- A. The penalty for refusal to take a mandated test for drugs or alcohol is immediate discharge subject to the provision of section 2.52.08 hereof.
- B. The penalty for a positive drug test result, once the time limits for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge subject to the provision of section 2.52.08 hereof.
- C. The penalty for a positive alcohol test result is immediate discharge subject to the provision of section 2.52.08 hereof.

(Ord. No. 95-14, § 7)

### **2.52.08. Allowance for second test.**

An employee whose initial drug test results are positive and who requests a test of the second portion of the split sample will be suspended without pay until such time as the designated representative receives the result of the second (split sample) test. Such second test will be at the employee's expense.

(Ord. No. 95-14, § 8)

### **2.52.09. Second test controls.**

A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the costs of the second test.

(Ord. No. 95-14, § 9)

### **2.52.10. Suspension.**

An employee reasonably suspected of unlawful use of drugs or abuse of alcohol while on duty as established by the rules, or who is involved in an accident as defined in 49 CFR 390.4 (and receives a citation for a moving traffic violation in this section) by the rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the designated representative.

## TITLE 3 FISCAL AFFAIRS

### CHAPTER 3.04 PURCHASES<sup>1</sup>

#### **3.04.01 Exempt commodity purchases.**

The purchase of commodities listed in A.C.A. 14-58-104 may be purchased without soliciting bids.

(Ord. No. 2021-30 , § 2, 9-20-2021)

#### **3.04.02. Commodity purchases of \$35,000.00 value or less.**

The mayor, or their duly authorized representative, shall have exclusive power and responsibility to make purchases of all commodities requisite for public purposes for the city and to make all necessary contracts for work or labor to be done, or materials or other necessary things to be furnished for the benefit of the city where the amount of the commodity expenditure does not exceed the sum of \$35,000.00.

(Ord. No. 2021-30 , § 2, 9-20-2021)

#### **3.04.03. Commodity purchases in excess of \$35,000.00 value.**

Where the amount of expenditure for any commodity purchase or contract exceeds the sum of \$35,000.00, the mayor, or their duly authorized representative, shall utilize competitive bidding in accordance with A.C.A. 14-58-303 and the limits found in A.C.A. 19-11-229 and 19-11-234.

(Ord. No. 2021-30 , § 2, 9-20-2021)

#### **3.04.04. Adjustment of value limits in sections 3.04.02 and 3.04.03.**

In accordance with A.C.A. 14-58-303(b)(3) beginning January 1, 2025 and every five years thereafter, the value limits found in sections 3.04.02 and 3.04.03 shall be adjusted to take into account changes in the Consumer Price Index. Such calculations of the change in value will be made by the Arkansas Department of Finance and Administration and provided to the city by ADFA.

(Ord. No. 2021-30 , § 2, 9-20-2021)

#### **3.04.05. Public works projects.**

Contracts for the major repair, alteration or erection of buildings or other structures, or for making other permanent improvements are subject to the requirements of A.C.A. Title 22, Chapter 9.

(Ord. No. 2021-30 , § 2, 9-20-2021)

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<sup>1</sup>Editor's note(s)—Ord. No. 2021-30 , § 2, adopted Sept. 20, 2021, repealed the former Ch. 3.04, §§ 3.04.01—3.04.11, and enacted a new Ch. 3.04 as set out herein. The former chapter pertained to similar subject matter and derived from Ord. No. 1982-1, §§ 1, 2; Ord. No. 82-8, §§ 1—4; Ord. No. 2013-13, § 2; Ord. No. 2014-25, § 2; Ord. No. 2015-24, § 2; Ord. No. 2018-16, § 2; and Ord. No. 2021-28, § 3.

### **3.04.06. Local preference.**

- A. In accordance with A.C.A. 14-58-105, the city hereby elects to provide a percentage preference in the amount of \_\_\_\_\_ percent, not to exceed a dollar cap of \$\_\_\_\_\_, to any firm resident in the municipality as that term is defined in A.C.A. 14-58-105.
- B. Where state or federal law governs purchases and do not allow for the granting of local preferences, this section is not available for use.

(Ord. No. 2021-30 , § 2, 9-20-2021)

### **3.04.07. Sales, exchange or disposal of materials, supplies or equipment.**

The sale, exchange and disposal of personal property shall be governed by A.C.A. 14-54-302.

(Ord. No. 2021-30 , § 2, 9-20-2021)

### **3.04.08. Professional services.**

Pursuant to the authority granted by A.C.A. 19-11-801(c), the city council hereby lists the following professional services exempt from the requirements of competitive bidding:

- Legal services.
- Financial advisory services.
- Architectural services.
- Engineering services.
- Construction management services.
- Land surveying services.
- Appraisal services.
- Land use planning services.
- Economic development services.
- Pooled risk management (insurance) services through the Arkansas Municipal League.

(Ord. No. 2021-30 , § 2, 9-20-2021)

### **3.04.09. Business disclosure.**

Any entity, other than a publicly traded corporation, conducting business with the city, prior to entering into any business agreement or transaction with the city, shall provide the following information in writing to the city:

- A. The names of the individuals: serving on its board of directors, who are members of an LLC, or partners in a partnership;
- B. The names of its principal officers;
- C. This requirement shall only apply to purchases and sales of real estate and companies bidding on city projects and procurements.

(Ord. No. 2021-30 , § 2, 9-20-2021)

### **3.04.10. Electronic payments.**

- A. Designated municipal employees and officials responsible for disbursements are authorized to disburse electronic fund payments directly into payee accounts in financial institutions when necessary or convenient for payment of any expense allowed against the city.
- B. Any such electronic disbursement shall include supporting documentation for the disbursement.
- C. The electronic funds payment method used by the city shall provide for internal accounting controls and documentation for audit and accounting purposes.
- D. The electronic funds payment method established by the city and authorized by this chapter shall not be implemented until and unless it has been approved by the legislative joint auditing committee.

(Ord. No. 2021-30 , § 2, 9-20-2021)

## **CHAPTER 3.08 DISTRICT COURT CHANGE AND CASH FUNDS**

### **3.08.01. District court change fund created.**

There is hereby created the district court change fund, which shall be initiated with an appropriation of \$75.00 and which shall be maintained with an ongoing balance of \$75.00 during each calendar year.

(Ord. No. 1992-16, § 1)

### **3.08.02. District court petty cash fund created.**

There is hereby created the district court petty cash fund, which shall be initiated with an appropriation of \$50.00 and which shall be maintained with an ongoing balance of \$50.00 each calendar year.

(Ord. No. 1992-16, § 2)

### **3.08.03. City treasurer to maintain funds.**

The city treasurer is directed to make such periodic payments into the change fund and the petty cash fund to assure maintenance of cash at the level allotted by this chapter.

(Ord. No. 1992-16, § 3)

### **3.08.04. Clerk to adhere to standard accounting practice.**

The district court clerk shall adhere to generally accepted accounting standards in expending money from the funds and shall utilize record keeping to assure accountability of all funds held.

(Ord. No. 1992-16, § 4)

## **CHAPTER 3.12 SALES AND USE TAX**

### **3.12.01. Levy of sales tax.**

Under the authority of the authorizing legislation, there is hereby levied a one-half percent tax on the gross receipt from the sale at retail within the city of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. 26-52-101 et seq.) and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption with the city of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. 26-53-101 et seq.) at a rate of one-half percent of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "sales and use tax").

The sales and use tax shall be levied, and the net collections received after deduction of the administrative charges of the state and required rebates shall be used for the payment of fire department and police department personnel costs. The sales and use tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under state law, subject to rebates and limitations as required for certain single transactions as from time to time required by Arkansas statutes.

(Ord. No. 2018-13, § 1)

### **3.12.03. Amendments.**

Ord. 2020-33—Amending Ord. No. 2005-19 to authorize collections of the one percent sales and use tax to be used to pay and secure repayment of bonds.

# TITLE 4

## BUSINESS LICENSES AND REGULATIONS

### CHAPTER 4.04 ELECTRIC FRANCHISE

#### **4.04.01. Electric franchise granted to Ozarks Electric Cooperative Corporation.**

The City of Prairie Grove, Arkansas, (hereinafter called grantor) hereby grants to Ozarks Electric Cooperative Corporation, its successors and assigns (hereinafter called grantee), the right, privilege and authority, as authorized by the Arkansas Public Service Commission and its successor in authority, within the present and all future expansion of the corporate limits of the city: (1) to sell, furnish, transmit and distribute electric power and energy to grantor and to all inhabitants and consumers within said limits; and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of grantor for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, sub-stations, cables, conduits and other related facilities, appliances and apparatus which are necessary for or useful in the furnishing, sale, transmission or distribution of said electric service hereinafter called facilities.

(Ord. No. 83-3, § 2)

#### **4.04.02. Rights and responsibilities of grantor and grantee.**

- A. Grantee shall, and does hereby by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities as defined above, required to serve customers in all areas and zones of the city, consents to the construction of such facilities as defined herein in all such areas and zones, and grantor agrees to protect by ordinance, stipulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to grantee set forth herein from interference with or duplication by other persons, firms or corporations seeking to engage in the sale or distribution of electric energy.
- B. All facilities of grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities.
- C. The grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of grantee's facilities used or useful for the condition of electric service and further, grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of grantee's facilities.

(Ord. No. 83-3, § 3)

#### **4.04.03. Termination procedure.**

The rights, privileges and authority hereby granted shall exist and continue from the date of passage of the ordinance from which this chapter is derived and thereafter until terminated in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas as presently enacted or hereafter amended.

(Ord. No. 83-3, § 4)

#### **4.04.04. Rates.**

The rates which are to be charged by grantee for electric service hereunder shall be those which are now lawfully approved or prescribed and as said rates may, from time to time, be amended by grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

(Ord. No. 83-3, § 5)

#### **4.04.05. City not liable for negligence of grantee.**

In the construction, operation, and maintenance of its facilities, said grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said grantor from damage, injury, loss or expense caused by the negligence of the grantee or its agents, servants or employees in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds.

(Ord. No. 83-3, § 6)

#### **4.04.06. Standard of care for facilities.**

The grantee shall endeavor at all times to keep its facilities in a reasonable state of repair and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force.

(Ord. No. 83-3, § 7)

#### **4.04.07. Franchise tax.**

During the life of this franchise, the grantee, Ozark Electric Cooperative Company, shall pay to grantor each year a franchise tax in an amount equal to four and one-fourth percent of the preceding calendar year's gross residential and commercial electric revenues as paid to the grantee by residential and commercial customers located within the corporate limits of the City of Prairie Grove. Payments shall be made by the grantee to the grantor in approximately equal quarterly installments beginning in January. Residential and commercial electric revenues are those revenues so classified pursuant to grantee's uniform classification standards. Grantor shall have the right to examine and verify from the records of the grantee any data relating to the gross revenues of grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by grantee in the City of Prairie Grove upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission or such successor regulatory agency which may have jurisdiction over the grantee for final determination and the decision of said commission shall be binding upon both parties hereto.

(Ord. No. 2003-23, § 1)

#### **4.04.08. Street lighting.**

Electric service furnished the grantor by the grantee for street lighting and other purposes shall be paid for by the grantor in accordance with the applicable rate schedules of the grantee now on file and/or as they may in the future be filed by the grantee and approved by the Arkansas Public Service Commission or other regulatory

authority having jurisdiction. The grantee shall have the privilege of crediting any amount due grantor with any unpaid balances due said grantee for electric service rendered to said grantor.

(Ord. No. 83-3, § 9)

#### **4.04.09. Private generation facilities allowed.**

Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing or furnishing electric energy for his or its own use or for the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation.

(Ord. No. 83-3, § 10)

#### **4.04.10. Electric franchise granted to Southwestern Electric Power Company (SWEPCO).**

The City of Prairie Grove, Arkansas, (hereinafter called grantor) hereby grants to Southwestern Electric Power Company, its successors and assigns (hereinafter called grantee) the right, privilege and authority, as authorized by the Arkansas Public Service Commission and its successors in authority within the present and all future expansion of the corporate limits of the city: (1) to sell, furnish, transmit and distribute electric power and energy to grantor and to all inhabitants and consumers within said limits; and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of grantor for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, sub-stations, cables, conduits and other related facilities, appliances and apparatus which are necessary for or useful in the furnishing, sale, transmission or distribution of said electric service hereinafter called facilities.

(Ord. No. 88-10, § 1)

#### **4.04.11. Rights and responsibilities of grantor and grantee.**

- A. Grantee shall, and does hereby by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities as defined above, required to serve customers in all areas and zones of the city, consents to the construction of such facilities as defined herein in all such areas and zones, and grantor agrees to protect by ordinance, except as otherwise limited herein, the grants of rights and privileges to grantee set forth herein from interference with or duplication by other persons' firms or corporations seeking to engage in the sale or distribution of electric energy.
- B. All facilities of grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities.
- C. The grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of grantee's facilities used or useful for the condition of electric service and further, grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of grantee's facilities.

(Ord. No. 88-10, § 2)

#### **4.04.12. Termination procedure.**

The rights, privileges and authority hereby granted shall exist and continue from the date of passage of the ordinance from which this chapter is derived and thereafter until terminated in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas as presently enacted or hereafter amended.

(Ord. No. 88-10, § 3)

#### **4.04.13. Rates.**

The rates which are to be charged by grantee for electric service hereunder shall be those which are now lawfully approved or prescribed and as said rates may, from time to time, be amended by grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

(Ord. No. 88-10, § 4)

#### **4.04.14. City not liable for negligence of grantee.**

In the construction, operation, and maintenance of its facilities, said grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said grantor from damage, injury, loss or expense caused by the negligence of the grantee or its agents, servants or employees in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds.

(Ord. No. 88-10, § 5)

#### **4.04.15. Standard of care for facilities.**

The grantee shall endeavor at all times to keep its facilities in a reasonable state of repair and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force.

(Ord. No. 88-10, § 6)

#### **4.04.16. Franchise tax.**

During the life of this franchise, the grantee, AEP-Southwestern Electric Power Company, shall pay to grantor a franchise tax in an amount equal to four and one-quarter percent of AEP-Southwestern Electric Power Company's gross revenues derived from the sale of electric power and energy to residential and commercial customers within the corporate limits of the City of Prairie Grove. Said sum is to be due and payable quarterly and AEP-SWEPCO shall have 30 days after the expiration of each quarter in which to make said payment. The first quarterly payment shall be for the months of January, February and March of 2004. Residential and commercial electric revenues are those revenues so classified pursuant to grantee's uniform classification standards. Grantor shall have the right to examine and verify from the records of the grantee, any data relating to the gross revenues of grantee from customers on which said franchise tax is due.

It is expressly agreed and understood by the grantor and grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are now or might in the future be imposed by the grantor under authority conferred upon the grantor by law.

(Ord. No. 88-10, § 7; Ord. No. 03-24, § 1)

#### **4.04.17. Street lighting.**

Electric service furnished the grantor by the grantee for street lighting and other purposes shall be paid for by the grantor in accordance with the applicable rate schedules of the grantee now on file and/or as they may in the future be filed by the grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The grantee shall have the privilege of crediting any amount due grantor with any unpaid balances due said grantee for electric service rendered to said grantor.

(Ord. No. 88-10, § 8)

#### **4.04.18. Private generation facilities allowed.**

Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing or furnishing electric energy for his or its own use or for the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation.

(Ord. No. 88-10, § 9)

#### **4.04.19. Term.**

The term hereof shall be 20 years extending from December 18, 1984, for 20 years thereafter.

(Ord. No. 88-10, § 10)

## **CHAPTER 4.08 GAS FRANCHISE**

#### **4.08.01. Granted.**

That the City of Prairie Grove hereby grants to the Arkansas Western Gas Company the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the city: (1) to sell, furnish, transmit and distribute natural gas to all inhabitants and consumers within the said limits; and (2) subject to the terms, conditions and stipulations mentioned in this chapter, consents and the right, permission and franchise is hereby given to the Arkansas Western Gas Company, a corporation organized and existing pursuant to the laws of the State of Arkansas, Grantee, and to its successors, lessees and assigns to lay, construct, equip, operate, repair and maintain a system of gas mains, pipes, conduits, feeders and the appurtenances for the purpose of supplying and distributing natural gas for light, fuel, power and heat and for any other purpose, to the residents or inhabitants of the said city; and further, the right to lay, construct, operate and maintain a system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable the said grantee to distribute and sell natural gas to the said city and to the residents or inhabitants thereof, and to others. As used in this chapter, the terms "natural gas" and "gas" shall be defined as including, in addition to natural gas, such alternate, substitute or supplemental fuels as (without necessarily limited to) liquefied natural gas, liquefied petroleum gas, synthetic natural gas and propane - air.

(Ord. No. 1980-12, § 1)

#### **4.08.02. Rights.**

The grantee herein is expressly given the permit (subject to the proviso hereinafter contained) to use the streets, avenues, roads, highways, alleys, sidewalks and other public places, as now laid out, or hereafter to be established, for the purpose of laying gas mains, pipe lines, conduits and feeders, and the necessary attachments, fixtures, connections and appurtenances for the purpose of conveying or conducting natural gas from any point within the said city or to any point beyond the city limits of the said city, or to any other point, through and beyond the city limits of said city, and to operate and maintain a system of pipe lines, pipes, conduits, feeders and the necessary attachments, connections, fixtures and appurtenances for the distribution of natural gas within said city

to serve the said city and the residents and inhabitants thereof, and others; provided, however, that where alleys are accessible for laying mains and pipes, the city shall have the right to require that the mains and pipes shall be laid in the alleys instead of the streets, so long as this is economically feasible (does not create an economic hardship).

(Ord. No. 1980-12, § 2)

#### **4.08.03. Excavations.**

No fees or charges of any kind shall be imposed by grantor upon the grantee or upon any successors, or upon any consumer of natural gas for the breaking or opening of any highway, street, road, avenue, alley or other public places, or for the laying of any main, service pipe or other connections therein, except as would be generally imposed on others performing similar work under similar circumstances and conditions.

Nothing in this franchise shall be construed in such manner as to in any manner abridge the right of the city to pass and enforce the necessary police regulations for the purpose of protecting the citizens of said city and their property and the property of the grantee.

Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall keep sufficient space in good condition for the travel of vehicles on at least one side of all excavations and obstructions, and shall as soon as practicable restore all openings on the highway, road, street, avenue, alley and other public places to condition equally as good as before said opening or obstructions were made. Anything to the contrary notwithstanding, when in the judgment of grantee it is necessary for the safety of the citizens, to divert or detour traffic from the area of excavations they have the power to so do upon notice to said city.

(Ord. No. 1980-12, § 3)

#### **4.08.04. Responsibilities, liability.**

The grantee shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or water course, park or public place, except as specifically allowed, nor with any public or private sewer or drainage system, or water lines, now or hereafter laid or constructed by the said town or by any authorized person or corporation, but no sewer or water pipes, electric conduits, telephone or TV cables shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, telephone and TV cables, sewer or water pipes. The grantee shall fully indemnify and save harmless the city from any and all claims for damage for which said city shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said grantee, or because of any act or omission of the grantee in the construction and operation of its system of mains and pipes.

(Ord. No. 1980-12, § 4)

#### **4.04.05. Terms, rates.**

Natural gas service shall be provided under the terms and conditions herein specified and pursuant to the rules and regulations of the Arkansas Public Service Commission governing utility service, as well as grantee's rules and regulations governing natural gas service on file with the Arkansas Public Service Commission and as interpreted and enforced by grantee. All utility services shall conform with these rules and regulations, as well as any other applicable rules and regulations, federal or state laws, including, but not limited to the Arkansas Plumbing Code.

The rates which are to be charged by grantee for natural gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be lawfully approved or prescribed by the Arkansas Public Service Commission or any successor regulatory authority having jurisdiction thereof.

The grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise.

(Ord. No. 1980-12, § 5)

#### **4.08.06. Responsibilities, definitions.**

The grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues or public grounds of said city, which they may demand. Whenever the word "grantee" occurs in this chapter, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns, and whenever the word "authorities" or "proper authorities" occur in this franchise, they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the City of Prairie Grove, Arkansas, or grantor.

(Ord. No. 1980-12, § 6)

#### **4.08.07. Tax.**

During the life of this franchise, the Grantee shall pay to the grantor each year a franchise tax in the amount equal to four and one-fourth percent of the grantee's revenues, before taxes, for residential and commercial customers located within the corporate limits of the City of Prairie Grove. Payments shall be made by the grantee to the grantor in monthly installments and grantee shall have 30 days after the end of each calendar month within which to make such payment. Residential and commercial revenues are those revenues so classified pursuant to grantee's uniform classification standards. Grantor shall have the right to examine and verify from records of the grantee any data relating to the gross revenues of the grantee from customers on which said franchise tax is due. In the event of a controversy between the grantee and the grantor as to the amount of gross revenues received by the grantee, the City of Prairie Grove, upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission or its successor regulatory agency which may have jurisdiction over the grantee for final determination, and the decision of said commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the grantor and grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the grantee, its successors and assigns of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, improvement districts, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the grantor under authority conferred upon the grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the grantee set forth in section 4.08.07 hereof, to pay the franchise taxes annually shall immediately terminate.

(Ord. No. 03-25, § 1)

#### **4.08.08. Term.**

This franchise shall take effect and continue and remain in force perpetually as provided in Section 44 of Acts of 1935, No. 324, Acts of the State of Arkansas, as same may be amended from time to time, and upon the written acceptance by the grantee of the terms and conditions of this franchise.

(Ord. No. 1980-12, § 8)

## CHAPTER 4.12 TELEPHONE FRANCHISE

### 4.12.01. Telephone service franchise granted.

- A. The City of Prairie Grove, Arkansas (hereinafter called grantor) hereby grants to Prairie Grove Telephone Company, Inc., its successors and assigns (hereinafter called grantee) the exclusive right, privilege and authority within the present and all future expansions within the corporate limits of the city: (1) to sell, furnish, transmit and distribute telephone service and communications to grantor and all inhabitants and consumers within said limits; and (2) to construct, maintain, operate and extend a system with such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to or under the control of grantor for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for or useful in the furnishing, sale, installation, or distribution of said telephone service (hereinafter called facilities.)
- B. This grant is expressly subject to all rules and regulations of, including, but not limited to, territorial assignments by, the Arkansas Public Service Commission and its successors in authority.
- C. The term "main station", as used herein, shall be deemed to mean a telephone line with its individual dial number installed to serve a particular customer.

(Ord. No. 1988-11, § 1)

### 4.12.02. Rights and responsibilities of grantor and grantee.

Grantee shall and does by acceptance hereof agree to provide to the city and its inhabitants adequate and reasonable telephone service and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for grantee to perform its obligations hereunder and the need and duty to promptly construct its facilities as defined above required to serve customers in all areas and zones of the city, consents to the construction and zones and grantor agrees to protect by ordinance, regulation and otherwise to the fullest extent permitted by law and except as otherwise limited herein the grants of rights and privileges to grantee set forth in section 4.12.01(A) from interference with or duplication by other persons, firms or corporations seeking to engage in the sale or distribution of telephone services.

- A. All facilities of grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property to the construction, operation and maintenance of its facilities.
- B. The grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of grantee's facilities used or useful for the rendition of telephone service and further, grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of grantee's facilities.

(Ord. No. 1988-11, § 2)

#### **4.12.03. Termination procedure.**

The rights, privileges and authority hereby granted shall exist and continue from the date of passage of the ordinance from which this chapter is derived, and thereafter, until terminated in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas as presently enacted or hereafter amended.

(Ord. No. 1988-11, § 3)

#### **4.12.04. Rates.**

The rates which are to be charged by Grantee for telephone service hereunder shall be those which are lawfully approved or prescribed and as said rates may, from time to time, be amended by grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

(Ord. No. 1988-11, § 4)

#### **4.12.05. City not liable for negligence of grantee.**

In the construction, operation and maintenance of its facilities, said grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said grantor from damages, injury, loss or expense caused by negligence of the grantee or its agents, servants or employees in construction, operation and maintaining said facilities or in paving or repairing any streets, avenues, alleys, bridges or other public grounds.

(Ord. No. 1988-11, § 5)

#### **4.12.06. Standard care for facilities.**

The grantee shall endeavor at all times to keep its facilities in a reasonable state of repair and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force.

(Ord. No. 1988-11, § 6)

#### **4.12.07. Franchise tax.**

- A. During the life of this franchise, the grantee shall pay to the grantor each year a franchise tax in an amount equal to four and one-fourth percent of the preceding years' gross revenues derived from residential and commercial basic telephone services and remote call forwarding located within the corporate limits of the City of Prairie Grove. Payments shall be made by the grantee to the grantor in quarterly installments payable January 1, April 1, July 1 and October 1 of each year.
- B. The grantee shall have a period of 30 days immediately following the due date of each quarterly payment during which to compute the amount to be paid the grantor.
- C. Grantor shall have the right to examine and verify from the records of the grantee any data relating to the number of main stations served by the grantee on which said franchise tax is based. In the event of a controversy between the grantor and grantee as to the number of main stations served by grantee in the City of Prairie Grove upon which said tax is based, such controversy shall be referred to the Arkansas Public Service Commission or its successor regulatory agency which may have jurisdiction over the grantee for final determination and the decision of said commission shall be binding upon the parties hereto.

(Ord. No. 1988-11, § 7; Ord. No. 03-26, § 1)

#### **4.12.08. Tax in lieu of all other charges.**

The aforesaid payment shall constitute and be considered as complete payment and discharge by the grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are now or might in the future be imposed by the grantor under authority conferred upon the grantor by law.

(Ord. No. 1988-11, § 8)

#### **4.12.09. Administration.**

- A. The city treasurer is hereby designated as the officer responsible for the administration of this chapter. The city treasurer may designate one or more employees of the city as his agent to enforce and administer the provisions hereof.
- B. The city treasurer or his designated agent may promulgate whatever rules are necessary and incident to the enforcement of this chapter.

(Ord. No. 1988-11, § 9)

### **CHAPTER 4.16 CABLE TV FRANCHISE**

#### **4.16.01. Cable TV franchise granted to Smith Wholesale Radio and TV Supply Company.**

The Smith Wholesale Radio and TV Supply Company, their heirs, successors, lessees and assigns be, and hereby are granted the exclusive right and franchise to furnish direct wire reception of television programs to the citizens and residents of the City of Prairie Grove, (grantor) County of Washington, State of Arkansas, by means of the establishment of a master antenna, using a master control unit and amplifier and relaying the television signals directly into the television reception for a period of 20 years from the effective date of the ordinance from which this chapter is derived, together with the right to erect and maintain such poles, wires, fixtures, etc., along the streets, avenues, alleys, roads, highways and other public places of the town as it may be necessary and convenient for its business as a television signal furnisher in supplying the citizens of the city the public in general and to use and to occupy for its television cables the streets, alleys, avenues, roads, highways and other public places within the City of Prairie Grove for the purpose of erecting, constructing, laying, owning, leasing, maintaining or otherwise repairing and operating such systems, all such rights and use to be, and continue on the conditions and terms herein stated, and providing further that existing or hereafter erected utility poles may be used with the permission of the owner thereof and providing further that the franchise owner shall place, construct, and maintain his or its poles and wires in accord with the best accepted standards and so as not to interfere with the travel or usage of such streets, avenues, alleys, roads, highways and other public places of the City of Prairie Grove, Arkansas.

From and after the date of passage hereof, the franchise agreement, validated June 20, 1960, between the City of Prairie Grove, Arkansas and Smith Wholesale Radio and Television Supply Company of Fayetteville, Arkansas, is hereby extended for a period of 15 years, which extension shall terminated June 20, 1995.

(Ord. No. 141-60, § 1; Ord. No. 82-3, § 1)

#### **4.16.02. Rates.**

The Smith Wholesale Radio and TV Supply Company and their or its heirs, successors, lessees and assigns be, and hereby are, granted the authority, right and privilege to set, control and regulate the fees for such service to individual consumers and users during the period provided by this chapter, subject to being just and reasonable, and further subject to approval of the city council and all state and federal regulatory bodies.

(Ord. No. 141-60, § 2)

#### **4.16.03. Right of grantor to void.**

The right and franchise shall be void unless the Smith Wholesale Radio and TV Supply Company or their heirs, successors, lessees and assigns commence bona fide construction within three months from the date of adoption of the ordinance from which this chapter is derived and unless service is begun within 12 months from the date of adoption of the ordinance from which this chapter is derived and if at any time, service is discontinued by the franchise holder for a period of more than six months after the service has been in operation.

(Ord. No. 141-60, § 3)

#### **4.16.04. City not liable for negligence of grantor.**

The franchise holder herein shall hold the city free and harmless from any and all damages arising from any abuse or negligence of the franchise holder; that the said poles and wires shall be so placed as not to interfere with the flow of water in any sewer, drain or gutter or with any gas or water pipe lines and that this chapter grant is to be made and enjoyed subject to all reasonable regulations and ordinances of police nature as the city may authorize or may see proper from time to time to adopt and not destructive of the rights herein granted.

(Ord. No. 141-60, § 4)

#### **4.16.05. Franchise tax.**

The grantee agrees to pay the city the sum equal to four and one-quarter percent of its gross receipts for the cable television service sold within the corporate limits of the city as now located and may be located hereafter, said sums to be paid in quarterly installments payable January 1, April 1, July 1, and October 1 of each year.

(Ord. No. 2003-27, § 1)

## **CHAPTER 4.20 OCCUPATIONAL LICENSES**

#### **4.20.01. Definitions.**

All words contained herein, except those expressly defined in this section, shall be construed by their common-sense meaning:

*Employer* shall mean any person, firm or corporation, partnership or joint venture who pays with money, services or any other consideration, to another person for the performance of labor done at the direction of or in connection with the business of the person, firm, corporation, partnership or joint venture sought to be construed as an employer.

*Employee* means any person who shall furnish labor for an employer in exchange for money, services or other direct or indirect consideration shall be deemed to be an employee.

*Business establishment* means any person, firm, partnership, corporation, joint venture or other association which furnishes services, materials or merchandise from any location within the corporate limits of the city to the general public for a fee charge or other direct or indirect benefit shall be deemed to be a business establishment. Business establishment shall also include any business or entity which operates from a temporary location for a period in excess of one week within the corporate limits of the city.

*License fee* means the charge assessed by the city for the privilege of doing business in the city.

(Ord. No. 1989-2, § 1; Ord. No. 2014-22, § 1)

#### **4.20.02. License fees.**

There is hereby levied on every business establishment which provides for sale to the public a service or merchandise and material within the corporate limits of the city, a license fee which shall be collected and paid by each business establishment according to the following schedule:

- A. Basic levy: One to three employees: \$30.00.  
Each additional employee: \$3.00.  
Provided, however, that in no case shall any levy exceed the total sum of \$100.00.
- B. For the purpose of this chapter, the owner of a sole proprietorship business shall be deemed to be an employee; provided, however, in the case of a multiple proprietorship, all of the proprietors, partners or professionals shall be deemed to be employees.
- C. For the purpose of this chapter, there shall be no distinction between the levy attributable to a full-time employee and that attributable to a part-time employee.
- D. For the purpose of this chapter, a family member other than the sole proprietor who performs labor for the sole proprietorship, shall be construed to be an employee.
- E. For the purpose of this chapter, an employee as defined above, who owns, by any method, more than one business endeavor shall be assessed a separate fee for each such endeavor, regardless of where each such separate business endeavor is located.

(Ord. No. 1989-2, § 2; Ord. No. 2010-21, § 2; Ord. No. 2013-27, § 2)

#### **4.20.03. Administration.**

- A. The administrative officer responsible for the collection and enforcement of this chapter shall be the city business clerk and such persons as he or she may delegate from time to time.
- B. The city business clerk shall make available for all affected businesses a business license application and a business license form and all such applications and license forms shall be maintained for the convenience of such business at the Prairie Grove City Hall.
- C. Licensing. Each license fee shall be due and payable on the first day of January of each calendar year and payment shall be for the full amount according to the schedule set forth herein. Any establishment which commences operation after July 1 of any calendar year shall pay an amount equal to one-half the annual licensing fee, regardless of the actual period of time during which business is to be carried on during that calendar year. All businesses shall have until January 30 of each year to obtain a license by paying the required charge, without further penalty. Any business which fails to obtain such license prior to February 1 of any calendar year shall be assessed a penalty in the amount of \$2.00 per day for each day after February 1 that the license is delinquent.
- D. In determining the number of employees applicable to any business, the city business clerk or his designated agent shall make a determination of the average number of employees employed by the business establishment to be taxed during the previous calendar year and shall make a second determination as to the number of employees employed by the business establishment at the time application is made. The city business clerk or his designated agent shall use the greater number in arriving at the sum of the tax to be assessed.
- E. Each applicant for a business license shall swear or affirm at the end thereof that the statements contained in the application are correct and any person knowingly making a false application shall be penalized as is herein set forth.
- F. The city business clerk shall use substantially the following form for the application:

- G. The administrative officer shall approve no application for a business license until the same has been certified by the building inspector as being in compliance with the zoning ordinance.

#### APPLICATION FOR BUSINESS LICENSE

1. Name of business:
2. Type of business structure (corporation, sole proprietorship, etc.):
3. Location of business:
4. Nature of business:
5. Number of employees on this date:
6. Average number of employees during previous calendar year
7. Name of person completing application:
8. Title of person completing application:

\_\_\_\_\_ Applicant Signature

Certified by Building Inspector as \_\_\_\_\_ in \_\_\_\_\_ not in compliance with zoning ordinance.

\_\_\_\_\_ Building Inspector

APPROVED:

BY: \_\_\_\_\_  
City Business Clerk

(Ord. No. 1989-2, § 3; Ord. No. 2010-21, § 2)

#### **4.20.04. Exemption.**

- A. Any person who operates a child care service from his or her home who is not subject to licensing by the state health department shall not be subject to licensing under this chapter and shall not be required to pay the tax levied hereby.
- B. Any recognized non-profit organization conducting fundraising activities (e.g., Girl Scouts, Boy Scouts, school groups, churches, etc.) shall be exempt from the requirements of this chapter.
- C. This chapter shall not apply to garage or yard sales, or any similar event normally conducted by individuals at their residence.

(Ord. No. 1989-2, § 4; Ord. No. 2010-21, § 2)

#### **4.20.05. Penalty clause.**

Any person found guilty of violating this chapter may be fined an amount not to exceed \$250.00 for each violation.

(Ord. No. 1989-2, § 5)

### **CHAPTER 4.24 PAWNSHOP RECORDKEEPING**

#### **4.24.01. Electronic recordkeeping required.**

Every pawnshop and/or pawn broker operating within the city limits shall electronically file the records required by A.C.A. 12-12-103 using the system required by the city police department for all items either pawned

with, pledged to, left as security, or sold to such pawnshop or pawn broker. Records shall be uploaded to the central electronic database at a minimum no less frequently than daily.

(Ord. No. 2011-3, § 1)

#### **4.24.02. Waiting period.**

It shall be unlawful for any pawnshop or pawn broker to sell, exchange, barter, remove from the place of business or allow to be redeemed any article purchased, pawned, pledged or felt for security for a period of 24 hours after entering the item into the central electronic database.

(Ord. No. 2011-3, § 2)

#### **4.24.03. Penalty.**

A. Failure to enter an item pawned or sold into the electronic reporting system shall be a violation. Persons found guilty shall be subject to a fine not to exceed \$100.00. Each day of violation and each item pawned or sold shall be considered separate violations.

B. Failure to keep an item for the required time under section 4.24.02 shall be a class C misdemeanor.

(Ord. No. 2011-3, § 3)

## **CHAPTER 4.28 AMBULANCE AUTHORITY**

#### **4.28.01. Title.**

This chapter shall be known as the "Amended Washington County Regional Ambulance Authority Interlocal Agreement Ordinance of 2011."

(Ord. No. 2011-17, § 1)

#### **4.28.02. Parties.**

The proposed parties to the amended interlocal agreement are Washington County and the cities of Elkins, Farmington, Fayetteville, Goshen, Greenland, Johnson, Lincoln, Prairie Grove, West Fork and Winslow.

(Ord. No. 2011-17, § 2)

#### **4.28.03. Authorization.**

A.C.A. 14-14-910, 14-266-101 et seq., and 25-20-101 et seq. authorize cities and counties to enter into contracts to cooperate or join with each other to provide services, such to specify the responsibilities of all parties.

(Ord. No. 2011-17, § 3)

#### **4.28.04. Interlocal agreement amended.**

The parties entered into an interlocal agreement in May, 2008. Said interlocal agreement is amended to account for changes in population that have occurred since as demonstrated by the 2010 dicennial census.

(Ord. No. 2011-17, § 4)

#### **4.28.05. Interlocal agreement attached.**

The attached first amendment to interlocal agreement for ambulance services provides for the amendment of the interlocal agreement to lock in each party's financial contribution at the amount paid for 2010. The attached

first amendment to interlocal agreement for ambulance services is hereby incorporated herein as if set forth word-for-word.

(Ord. No. 2011-17, § 5)

#### **4.28.06. Officials authorized to sign agreement.**

The mayor and clerk/treasurer are hereby authorized to sign the first amendment to bind the city to the terms of such agreement. The mayor and clerk/treasurer are further authorized to take such steps as are necessary and incident to its implementation.

(Ord. No. 2011-17, § 6)

#### **4.28.07. Effective date.**

The ordinance from which this chapter is derived shall become effective 30 days following its posting.

(Ord. No. 2011-17, § 7)

## **CHAPTER 4.32 QUARRYING, MINING AND EXCAVATION ACTIVITIES**

### **4.32.01. Commercial activity defined.**

Commercial quarrying, mining and excavation activities are those carried on where the removal of rock, soil or other minerals is conducted for profit or at no cost when the materials are typically removed from the property and used off-site.

(Ord. No. 2014-5, § 2)

### **4.32.02. Activity restricted.**

Quarrying, mining and excavation activities are restricted to operation under the following conditions:

- A. Commercial activities may only be conducted in areas zoned agricultural.
- B. Activities may only take place between the hours of 7:00 a.m. and 6:00 p.m.
- C. Use of loud tools, loud equipment and actual excavation activity at commercial facilities are further limited to the hours between 8:00 a.m. and 4:30 p.m. Monday through Friday.
- D. The area of excavation at commercial facilities must remain a minimum of 100 feet from any existing residential, commercial or industrial structure located on adjacent property.
- E. Blasting activities are restricted to a maximum of two days per calendar month. Blasting activities are limited to the hours between 10:00 a.m. and 3:00 p.m. and require advance notice to the city at least seven days (168 hours) in advance. The approval of the mayor, public works director, chief of police and fire chief are all required before undertaking any blasting. Notification to all residents and commercial establishments located within a one-mile radius is required at least 48 hours in advance of blasting. No blasting may take place within 100 yards of any existing residential, commercial or industrial structure located on adjacent property.
- F. Commercial facilities must implement measures to control the escape of airborne dust past the property boundaries of the facility. Commercial facilities must also implement measures to control the escape of dirt and/or mud from vehicles leaving the facility (e.g., wheel wash).
- G. All commercial activities shall comply with state and federal laws and regulations governing mining, water and air pollution. Facilities are required to obtain and maintain all necessary permits.
- H. Tailgate banging is expressly prohibited.

(Ord. No. 2014-5, § 2)

#### **4.32.03. Exemptions.**

The provisions of this chapter shall not apply to property owners or utilities conducting repairs or maintenance on buried, underground utilities.

(Ord. No. 2014-5, § 3)

## **CHAPTER 4.36 YARD SALES**

#### **4.36.01. Zones.**

Regulation of sales from yards, garages or carports:

- A. From and after the effective date of this section, it shall be unlawful for any person to conduct a sale from a yard, garage or carport situated in an R-1, R-1.5, R-1.75 or R-2 zone except as expressly allowed herein.

(Ord. No. 2018-08, § 2)

#### **4.36.02. Definitions.**

For the purposes of interpreting this section, the following definitions have application:

*Person* means any individual, corporation, trust, unincorporated association or other legal entity.

*Sale* means a single transaction involving the exchange of money or other consideration for used personal property of any kind whatsoever where five or more such items are simultaneously advertised or offered for sale from a yard, garage or carport.

(Ord. No. 1992-18, § 2)

#### **4.36.03. Limitations.**

- A. No person may conduct a sale at any time between the hours of 7:00 p.m. and 8:00 a.m.
- B. No sale may be conducted more than three consecutive days.
- C. No person may conduct a sale from the same location more often than four times per year.

(Ord. No. 1992-18, § 3; Ord. No. 2012-12, § 2)

#### **4.36.04. Permitting of sales.**

- A. No person subject to the regulations of this section may conduct such a sale without first obtaining a permit from the city.

The permit must be approved at least three days before the commencement of the sale.

- B. The applicant for a permit shall complete an application provided by the city in substantially the following form:

Name:

Address:

Address of Sale:

Start Date and Time:

Stop Date and Time:

Location of all signs:

Approved:

Disapproved:

Signature

- C. The city shall charge a fee of \$5.00 for each permit and all sums collected shall be deposited in the general fund.
- D. Placement of advertising signs.
  - 1. No advertising sign shall be placed on a public or utility-owned pole and no such sign shall be placed on a private pole not owned by the applicant.
  - 2. No advertising sign shall be located along a public street in such a manner as to adversely affect traffic safety.
- E. No such advertising sign shall be allowed to remain on any public or private property for more than 24 hours following the last date of such sale.

(Ord. No. 9218, § 5; Ord. No. 2013-27, § 9)

# TITLE 5

## HEALTH AND SANITATION

### CHAPTER 5.04 SOLID WASTE COLLECTION

#### **5.04.01. Collection by city.**

All trash and refuse accumulated by the persons in the city shall be collected, stored, conveyed, transferred and disposed of by the city. This includes residential, commercial or industrial establishments that produce trash or refuse generated within the city limits unless otherwise exempted by the mayor or his designated representative for alternative disposal. No other person shall collect, store, convey, transfer or dispose of trash or refuse generated in the city without the express written permission of the city.

Person shall mean any individual, partnership, corporation, limited-liability company or other legal entity recognized as such by the laws of the state.

(Ord. No. 2005-24, §§ 2, 3)

#### **5.04.02. Supervision.**

All refuse accumulated in the city shall be collected, conveyed and disposed of by the city under the supervision of the water and sewer superintendent. The superintendent shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matter pertaining to the collection, conveyance and disposal, as he may find necessary, and to change and modify same after notice, as required by law, provided that such regulations are not contrary to the provisions hereof.

(Ord. No. 1973-4, § 2)

#### **5.04.03. Acceptable items.**

- A. Acceptable items for routine disposal shall include solid and semi-solid household trash, garbage, and refuse in bags approved by the city. Bags should not exceed 50 pounds in weight. Liquid waste is not acceptable. The city maintains the right to refuse collection of bags deemed to be in excess of 50 pounds by the refuse collector. The city maintains the right to refuse collection of containers that clearly contain liquid wastes.
- B. All residential customers shall be allowed one special bulky or special waste pickup per year without incurring additional trash charges, however, some items such as electronics or appliances with freon may require additional charges to cover the cost of those items. Items such as hazardous waste, tires, and dead animals will not be collected. Customers should call the city water utility office to schedule such pick-ups. Only customers who have been on service with the city sanitation department for at least 12 months are eligible for free or discounted service.
- C. Yard waste, such as leaves, grass clippings, and brush may be collected by the city solid waste department as schedules allow. Customers shall notify the business office that they have yard materials to be collected. Brush removal is free for minimal amounts of material. Large amounts which require maintenance crews longer than 15 minutes to handle shall be charged \$100.00 per hour to be billed in 15 minute increments.

(Ord. 2003-6, § 1; Ord. No. 2012-18, § 2; Ord. No. 2013-21, § 2)

#### **5.04.04. Duty to provide and maintain a sanitary condition.**

Trash shall not be placed out for collection more than 24 hours in advance, to prevent it from becoming unsightly or unsanitary. Trash cans used to protect approved bags shall be safe and free from jagged edges or sharp metal, which could cause injury to the refuse collector. The city maintains the right to refuse collection if the container is unsafe and the owner refuses to replace or get rid of the container upon proper notice. The integrity of refuse placed for collection is the responsibility of the owner until it is collected on regularly scheduled days. Trash that has blown, been damaged by animals, run over by vehicles, or damaged by any other means outside of the city's control is not the responsibility of the city. The property owner should pick up loose trash, strewn garbage, or blown items as soon as they are aware of the occurrence. Litter laws, illegal trash disposal laws, and illegal dumping laws may be imposed on property owners who allow garbage to blow or be dumped on other properties in the city without that owner's expressed approval. Acceptable containers will include only those approved bags supplied by the city for the collection of household refuse.

(Ord. No. 2003-6, § 1)

#### **5.04.05. Frequency and points of collection.**

Refuse containers shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley, and accessible to and not more than ten feet from the side of the street or alley from which the collection is made, provided that containers may be placed for collection at other than ground level, and at a distance more than ten feet when approved by the superintendent, and an additional payment for extra services is agreed upon by both parties. Refuse will be collected from residences and commercial enterprises at such intervals each week as shall be fiscally sound and practicable.

(Ord. No. 1973-4, § 4; Ord. No. 1980-4, § 1)

#### **5.04.06. Land fill operation.**

The mayor, with the majority approval of the city council, will have the express right to contract with all necessary persons, firms and corporations for the purpose of providing the city with an acceptable land fill operation necessary to dispose of all refuse and garbage accumulated by the citizens of the city.

(Ord. No. 1973-4, § 5)

#### **5.04.07. Security deposit.**

- A. This section shall be known as the "Solid Waste Disposal Customer Deposit Ordinance."
- B. All customers who receive solid waste disposal services from the city, but who do not also receive water service from the city, shall be required to place a \$25.00 security deposit on file with the city's public utilities department.
- C. The city shall return all deposits to the last known address of the customer within 30 days after the customer ceases being a customer of city services or within 30 days after a customer begins receiving water services from the city.
- D. The city shall have the right to apply any such deposit toward the payment of a customer's unpaid account for utility services with the city. Application of the deposit shall not absolve any customer of their liability for such unpaid account, but may be used to offset the amount of the unpaid account.
- E. This section shall become effective January 1, 2007. All currently existing customers receiving solid waste disposal services and not receiving water service shall pay such deposit by January 1, 2007. All new customers after January 1, 2007, shall pay the deposit prior to receiving services.

(Ord. No. 2006-24, §§ 1—6)

**5.04.08. Classification and rates.**

A. *Residential.*

1. *Level No. 1* is a residential user whose use does not exceed 52 15-gallon containers per year: \$8.50/month.
2. *Level No. 2* is a residential user whose use does not exceed 52 32-gallon containers or 104 15-gallon containers per year: \$10.00/month.
3. *Level No. 3* is a residential user whose use does not exceed 78 32-gallon containers or 156 15-gallon containers per year: \$12.75/month.
4. *Level No. 4* is a residential user whose use does not exceed 104 32-gallon containers or 208 15-gallon containers per year: \$14.25/month.
5. *Level No. 5* is a residential user whose use does not exceed 130 32-gallon containers or 260 15-gallon containers per year: \$16.75/month.
6. *Level No. 6* is a residential user whose use does not exceed 156 32-gallon containers or 312 15-gallon containers per year: \$19.50/month.
7. *Level No. 7* is a residential user whose use does not exceed 208 32-gallon containers or 416 15-gallon containers per year: \$25.00/month.

B. *Residential apartments.* Where there are multi-family apartment complexes and residents dispose of their trash in a central location with other residents in the complex, the minimum rate available above shall be the medium volume residential, Level No. 3. Only trash in city-issued bags will be collected. When the resident in an apartment unit is 65 years of age or older, a senior citizen rate of \$8.50 per month shall be available. It is the responsibility of the resident to demonstrate their qualification for this rate.

In addition, where dumpsters are used for the disposal of trash in apartment complexes, the management shall be responsible for any trash in addition to that in city-authorized bags, at a cleanup rate of \$25.00 per dumpster per month.

Where central pens or trash enclosures are utilized for the placement of trash in an apartment complex, the owner or manager of the complex shall be responsible for keeping the pen free of loose trash, un-authorized bags or debris, and shall have all excess trash removed and kept clean or the city may refuse service.

C. *Bulky wastes.* All residential customers are allowed one special bulky waste pickup per year. In addition, the sanitation department has a limited number of special waste dumpsters available on a first come, first served basis for the following rates: \$20.00 per pickup for a 1.5 cubic yard dumpster; \$30.00 per pickup for a 3.0 cubic yard dumpster; and \$40.00 per pickup for a 4.0 cubic yard dumpster. These dumpsters are for special clean-ups only and may not be utilized for normal residential waste collection.

D. *Commercial.*

Office Commercial is a user whose commercial use does not exceed one 32-gallon container per week	\$9.00 per month
Retail Commercial No. 1 is a commercial user whose use does not exceed one pickup or two 32-gallon containers per week	\$15.00 per month
Retail Commercial No. 2 is a commercial user whose use does not exceed two pickups a week or up to four 32-gallon containers per week	\$25.00 per month
Retail Commercial No. 3 is a commercial user whose use does not exceed four pickups per week or eight 32-gallon	\$35.00 per month

(Ord. No. 2005-27, §§ 1—4; Ord. No. 2015-3, § 2; Ord. No. 2015-7, § 2; Ord. No. 2016-13, § 2)

**5.04.09. Volumetric charge.**

In the event a retail or commercial user exceeds the allowable quantity of solid waste allowable for his or its category, the city shall add a \$3.00 per cubic yard per month. The assessment shall be based on actual observed collection data and shall be based on loose or compacted solid waste, as determined by the solid waste department.

(Ord. No. 2005-27, § 5)

**5.04.10. Purchase of additional containers.**

A customer who exceeds his or its limit of containers may purchase additional containers from the city at its cost.

(Ord. No. 2005-27, § 6)

**5.04.11. Retail commercial dumpster categories and rates.**

Dumpster Size	Pickups per Week	Base Rate/Month	Each Additional Dumpster
1.5 cu yard	1	\$23.00	\$20.00
3.0 cu yard	1	\$46.00	\$40.00
4.0 cu yard	1	\$61.32	\$55.32
1.5 cu yard	2	\$46.00	\$40.00
3.0 cu yard	2	\$92.00	\$80.00
4.0 cu yard	2	\$122.64	\$110.64
1.5 cu yard	3	\$69.00	\$60.00
3.0 cu yard	3	\$138.00	\$120.00
4.0 cu yard	3	\$183.96	\$165.96
1.5 cu yard	4	\$92.00	\$80.00
3.0 cu yard	4	\$184.00	\$160.00
4.0 cu yard	4	\$245.28	\$221.28
1.5 cu yard cardboard	1*	\$12.00	
3.0 cu yard cardboard	1*	\$24.00	
4.0 cu yard cardboard	1*	\$32.00	

\*Additional pickups per week available at the same rate.

(Ord. No. 2011-2, § 3)

**5.04.12. City authorized to sell or lease dumpsters.**

A. The city council hereby authorizes the solid waste department to negotiate leases or sales of dumpsters. In the event a sale is negotiated, the sale prices shall be the city's actual cost and the cost may be paid over a

three-month period. In the event a lease is negotiated, the lease price shall be \$7.50 per month for a 1.5-yard dumpster, \$15.00 per month for a three-yard dumpster and \$20.00 per month for a four-yard dumpster.

- B. Each lease or sale negotiated must be approved by the city council before it can become operative.  
(Ord. No. 2005-27, § 9; Ord. No. 2011-2, § 4)

#### **5.04.13. Procedures and restrictions implemented.**

Following the implementation date established by the ordinance from which this section is derived:

- A. Refuse in any bags or containers which have not been approved and designated for use by the city sanitation department will not be collected by the solid waste department unless special arrangements and payment are made through the business office.
- B. New residential customers who establish service after the first of each year shall be issued a number of bags for their service category which is proportionate to the number of weeks remaining in the year.
- C. For purposes of this section, one 32-gallon bag is the equivalent of two 15-gallon bags, and two 15-gallon bags are the equivalent of one 32-gallon bag.

(Ord. No. 2001-18, § 4)

#### **5.04.14. Penalty clause.**

From and after the effective date of the ordinance from which this section is derived, it shall be unlawful for any person to place refuse in containers for collection which have not been approved and designated for use by the city sanitation department. Any person found to be in violation of any provision of this ordinance, or of Prairie Grove Municipal Code chapter 5.04 et seq., shall be deemed guilty of a misdemeanor and may be fined such amount as is allowed by law.

(Ord. No. 2001-18, § 5)

#### **5.04.15. Bills.**

- A. Trash collection charges shall be billed by the city water department and charges will be added with water and sewer charges on one unified bill. All provisions for payment, penalty, and discontinuation of service shall be governed by Prairie Grove Municipal Code sections 10.04.04 and 10.12.04, and said Code sections should be, and hereby are incorporated by reference herein. Failure to pay sanitation charges may result in the discontinuation of all services billed through the city water department including sanitation, water, and sewer. Sanitation collection and billing is mandatory for all residential customers inside the city.
- B. Sanitation collection only customers, defined as those customers who receive sanitation collection service, but who do not receive water or sewer service from the city, shall post a service deposit of \$25.00 before service is rendered. The deposit shall be refunded when service is terminated, or said deposit may be applied to any unpaid balance at the time of the termination of service.

(Ord. No. 2001-18, § 7)

#### **5.04.16. Fuel surcharge.**

Beginning for all sanitation billings on or after May 1, 2011, there shall be added a fuel surcharge as follows:

- A. If the average price of purchased diesel fuel in the prior month is \$3.50—\$3.99 per gallon, the fuel surcharge shall be \$0.20 per customer per month.
- B. If the average price of purchased diesel fuel in the prior month is \$4.00—\$4.99 per gallon, the fuel surcharge shall be \$0.35 per customer per month.

- C. If the average price of purchased diesel fuel in the prior month is \$5.00 or more per gallon, the fuel surcharge shall be \$0.50 per customer per month.

(Ord. No. 2011-6, § 2)

## **CHAPTER 5.08 MAINTENANCE OF REAL PROPERTY**

### **5.08.01. Order to abate authorized.**

After inspection and determination as is set out in section 5.08.06, the mayor or his designated representative, is authorized to order, in the name and by the authority of the city, the owner of any real property, subdivided or otherwise, within the limits of the city to cut weeds, grass or dead or dying trees, remove garbage, rubbish and other unsightly and unsanitary articles and things, abate all fire and flooding hazards, and to eliminate, fill up or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs when any one or more of the above-listed conditions are found to exist on the owner's property or on alleys, utility rights-of-way and/or easements adjoining the owner's property.

(Ord. No. 94-4, § 1)

### **5.08.02. Structures.**

The mayor or his designated representative, is authorized to order, in the name of and by the authority of the city, the repair, removal or razing of all buildings and structures, including but not limited to dwellings, apartment houses, rooming houses, or buildings or structures used as such, which are determined by the city to be unsightly, unsafe, unsanitary, obnoxious or which constitute a fire hazard or in other manners are detrimental to the public welfare.

(Ord. No. 94-4, § 2)

### **5.08.03. Owners of property liable.**

Owners of lands which shall be subject to orders requiring the removal of garbage, rubbish and other unsightly and unsanitary articles and things shall include, but shall not be limited to, owners of lands which are subject to dumping of trash and litter by unknown parties and owners of lands which accumulate substantial quantities of litter and trash blown onto such lands from other lands.

(Ord. No. 94-4, § 3)

### **5.08.04. Maintaining minimum standards.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy, any building or structure, nor shall any vacant building be permitted to exist, which does not comply with the following requirements:

- A. *Sanitation.* The shared or common areas of the structure and premises shall be maintained in a clean and sanitary condition.
- B. *Cleanliness.* Every owner and every occupant of a structure shall keep in a clean and sanitary condition that part of the structure and premises thereof which he occupies and controls or which is provided for his particular use.
- C. *Garbage disposal.* Every owner and every occupant of a structure or dwelling unit shall dispose of all his garbage, any other organic waste which might provide food for rodents and all rubbish, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

- D. *Care of premises.* It shall be unlawful for either the owner or occupant of a residential or non-residential building, structure or property to utilize the premises of such property for the open storage of any inoperable motor vehicle, use of a motor vehicle for storage purposes, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner and occupant to keep the premises of such property clean and to remove from such premises all such abandoned items as listed above, including, but not limited, to, weeds, dead trees, trash, garbage etc., upon notice from the city.
- E. *Extermination.* Every owner and every occupant of a building or structure shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.
- F. *Use and operation of supplied plumbing fixtures.* Every occupant of a structure shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- G. *Enforcement.* The provisions of this section shall be enforced according to the further provisions of this article.

(Ord. No. 94-4, § 4; Ord. No. 2011-16, § 4)

#### **5.08.05. Guidelines.**

In ordering the cutting and removal of weeds, grasses and trees, the authorized department shall proceed by the following guidelines:

- A. Except as otherwise provided, all lands, whether or not platted and/or subdivided, which have never been cleared or developed and which remain in their natural state, may be maintained in their undeveloped, natural state, provided that an order authorized by this section may be issued for portions of such property as is necessary to abate vegetations which block pedestrian or vehicular vision or traffic, provided further that in the event such lands are put to any use, including but not limited to pasturing for livestock, then such lands shall be maintained as is provided in subsection (B) below, and provided further that any inhabitant of the city may initiate a complaint to the city that a tract of land described in this subsection should be maintained as provided in subsection (B) below. If such complaint is received by the city, an investigation of the subject lands will be made. If the investigation results in a determination that the subject lands, even though such lands remain undeveloped, constitute a substantial health, fire, flooding or aesthetic hazard or detriment to the inhabitants of the city because of the subject lands' close proximity to developed lands, or for other reasons, the city shall order such lands maintained as is provided in subsection (B) below.
- B. All lands, except those described in subsection (A) above, shall be maintained so that weeds and grasses thereon shall not exceed six inches in height.
- C. All lands which lie within the fire zones of the city shall be maintained so that grasses and weeds shall not exceed six inches in height.
- D. The owners of all lands, other than those described in subsection (A) above, shall maintain all unopened street rights-of-way, easements for utility drainage, walking or other purposes, unopened alleys, and opened alleys other than the portion of same used for vehicular traffic, which adjoin said owners' lands so that weeds and grasses shall not exceed six inches in height. If any such right-of-way, easement or alley is adjoined by the lands of two property owners, then each owner shall maintain such right-of-way, easement or alley to the midpoint thereof.
- E. The owners of all lands shall remove or cause to be removed all dead or dying trees and dead parts of living trees from their lands when such dead or dying trees or dead parts of trees shall constitute a hazard to personal safety or property due to the imminent possibility of their falling upon or being blown upon public property or property of other owners, or when such trees because of disease or

decay constitute a nuisance and/or imminent health threat to other trees located on public property or property of other owners.

(Ord. No. 94-4, § 5)

#### **5.08.06. Inspection required.**

No order authorized by section 5.08.01 or 5.08.02 shall be issued without a thorough inspection of the condition by the staff of any city department designated by the mayor as having inspection duties and without a determination by the mayor or his designated representative, that the existing condition which he orders abated constitutes a substantial health, fire, flooding or aesthetic hazard or detriment to the well-being of the inhabitants of the city.

(Ord. No. 94-4, § 6)

#### **5.08.07. Issuance; content of order.**

A. Any order issued pursuant to sections 5.08.01 through 5.08.06 above or pursuant to the currently enacted edition of the standard housing code shall be in writing, signed by the mayor, or his designated agent, and delivered to the owner of the subject real property, an agent of the owner or the person in control of the subject real property. The order or notice shall be delivered to one of the aforementioned parties in one of the following two methods:

1. By certified mail, return receipt requested; or
2. By personal delivery by a city officer or employee,

who may be, but does not have to be, an employee of the police department. The order or notice shall state the conditions on the subject real property which are ordered abated, and the order or notice shall advise the deliverer that if the conditions listed in the order or notice have not been abated within seven days that the city shall proceed according to the provisions of this chapter and other valid legislative enactments to abate the listed conditions and that the costs of such action shall be charged to the owner of the subject real property and shall constitute a lien on such property. The order or notice relating to weeds and grass shall further advise the deliverer that the city shall proceed to continually abate the nuisance every 30 days throughout the current growing seasons and that the costs of such action shall be charged to the owner of the subject real property and shall constitute a lien on such property.

B. In case the owner of any lot or other real property is unknown or the owner's whereabouts are not known or such owner is a non-resident of this state, then a copy of the written notice referred to above shall be posted in a conspicuous place upon the premises.

(Ord. No. 94-4, § 7)

#### **5.08.08. Inspection; certificate of compliance.**

Upon request by any owner of real property or by any person or business entity who has contracted with a property owner to mow grass and weeds, remove dead trees, remove garbage, rubbish and other unsightly articles, or otherwise perform work required by this chapter, the city shall make an inspection of the cleanup work done by such owner or such contractor for the purpose of determining whether the lands of such owner are in compliance with the provisions of this chapter. An inspection fee in the amount established by the city council shall be charged per inspection. If, upon inspection, the lands of such owner are found to be in compliance with the provisions of this chapter, a certificate of compliance shall be issued to such owner or contractor indicating that, upon the date of inspection, such lands complied in all respects with the provisions of this chapter.

(Ord. No. 94-4, § 8)

#### **5.08.09. Abatement by city lien.**

After the order or notice has been delivered, mailed or posted pursuant to the provisions of section 5.08.07 above for a period of seven days, and if the conditions listed in such order or notice shall not have been abated during that period of time, the mayor is hereby authorized to direct the appropriate city department to take all required actions to abate the conditions listed in the order or notice. The costs and expenses of abating such conditions shall be charged to the owner or owners of such real property for such costs and expenses.

(Ord. No. 94-4, § 9)

#### **5.08.10. Collection of city's costs.**

After reasonable efforts have been made to collect from the owner of the subject real property the costs and expenses incurred by the city in abating the conditions set out in the original order or notice, the accounts shall be transferred to the office of the city treasurer. The city treasurer shall make an investigation as to the residence of the owner of the subject property and shall make an affidavit setting out facts as to the owner's address, last-known address, whether or not the owner is a resident or non-resident of the state and, if the owner is a non-resident, setting out the facts as to the unknown address or whereabouts of the non-resident owner. The city treasurer shall then refer such account, with the affidavit, to the city attorney for the purpose of filing an action in chancery court to enforce the lien on the subject property. Before any such lien is enforced by sale of the subject property, all legal notices that are required by the laws of the state shall be given, including, in the case of non-residents, notice by publication of warning order and notice by attorney ad litem to any non-residential landowner by registered mail addressed to the landowner by registered mail addressed to the landowner's last-known place of residence if same can be found.

(Ord. 94-4, § 10)

#### **5.08.11. Construction areas.**

Any lot, acreage, or development that contains construction activities such as, but not limited to, building construction, dirt work, utility construction, landscaping, or drainage work, shall be kept in a clean and sanitary condition. No trash, building waste, debris, garbage, or human waste shall accumulate in a manner that would cause it to blow, run-off, or constitute a health risk or unsanitary condition.

- A. A trash containment area, either a dumpster, roll-off container, or trash pen at least four feet in height shall be placed at each construction site. The containment shall be sufficient to contain all trash generated from that site and be constructed in a manner that trash or debris cannot blow or runoff from the enclosure.
- B. Sanitary facilities, such as portable restrooms, shall be provided by contractors to all construction sites, and may not be located more than 250 feet from any one site at the time construction is underway. The portable facilities shall be maintained in a sanitary manner and be secured as to prevent tips, roll-over, or blowing.
- C. At no time shall any one engaged in construction activities within the city limits engage in excretory functions or otherwise urinate or defecate in any area other than an approved portable restroom or sanitary facility, or a permanent, indoor restroom.

(Ord. No. 04-13, § 1)

#### **5.08.12. Penalties.**

In the event that the owner of any real property who is given notice or ordered to abate a condition pursuant to provisions of this chapter shall refuse or fail to so comply with such order or notice within the period of time established for compliance by such order or notice, said owner shall be deemed guilty of a misdemeanor and,

upon conviction thereof, shall be punished as set forth in section 5.08.14 of this Code, and each day of violation shall be deemed a separate offense.

(Ord. No. 94-4, § 11)

#### **5.08.13. Failure to abate unlawful.**

To cause, create, permit or cause to occur within the city any nuisance on one's premises, and each day such nuisance is permitted to remain, after notice from the police department for the abatement thereof, shall subject the person or persons responsible for the non-abatement of such nuisance to punishment as provided in sections 5.08.09 and 5.08.14.

(Ord. No. 94-4, § 12)

#### **5.08.14. Penalty.**

In addition to costs of conformity with the provisions hereof which may be taxed to the landowner, any person violating the provisions hereof shall be fined, found guilty in district court, a sum of not less than \$10.00 nor more than \$100.00 for each day a violation continues.

(Ord. No. 94-4, § 13)

#### **5.08.15. Contaminated structures.**

- A. Any structure within the city limits that shall be listed on the Arkansas Department of Environmental Quality's list of structures contaminated due to controlled substances, shall be remediated within 90 days of its date received by ADEQ, or within 90 days of the effective date of the ordinance from which this section is derived, whichever is later. Failure to remediate the structure in accordance with state laws and regulations pertaining to such remediations, shall subject the property owner to the penalties contained in sections 5.08.12 and 5.08.14 above.
- B. At the time law enforcement serves the owner or agent of any property subject to this section with the notice required by A.C.A. 8-7-1405, they shall also serve them with a notice to abate the subject property within the time period set out in subsection 5.08.015(A) above in the manner for providing notice provided by section 5.08.07.

(Ord. No. 2011-5, § 2)

## **CHAPTER 5.12 DISPOSAL OF WASTE MATERIAL**

#### **5.12.01. Disposal facilities required.**

It shall be unlawful to maintain, or use, any residence, place of business or other building or place where persons reside, congregate, or are employed which is not provided with means for the disposal of human excreta, either by a flush toilet connected with a sewer system approved by the city health officer and the state board of health or a privy which meets the requirements of the plans and specifications of the state board of health.

(Ord. No 131, § 2)

#### **5.12.02. Connection required.**

Every building where persons reside, congregate, or are employed which abuts a street or alley in which there is a public sanitary sewer or which is within 300 feet of a public sanitary sewer, shall be connected to the sewer, and with a separate connection for each house or building.

No residence or establishment connected to the public sewerage system shall be allowed to build or maintain a privy or private sewage disposal system of any description provided that this does not apply where special permission is obtained from the city health officer.

(Ord. No. 131, § 3)

### **5.12.03. Private waste facility.**

Every residence, place of business, or other building or place where persons congregate, reside, or are employed and which does not abut a street or alley in which there is a public sanitary sewer, or which is not within 300 feet of a public sanitary sewer, shall be provided with a private water flush toilet, or with a privy, by the owner or agent of the premises; said water flush toilet system, or privy, to be built or rebuilt, constructed, and maintained as hereinafter prescribed.

#### *A. Private sewerage system.*

1. At any residence, place of business, or other building where there is installed a water flush system of excreta disposal, which is not connected to a public sewerage system approved by the city health officer and the state board of health, there shall be established, or installed, a private sewage-disposal plant, said disposal plant to consist of a settling tank and a system of underground drains for the disposal of the tank effluent. Said tank and drains shall be so constructed as to meet the requirements of construction and maintenance described and prescribed by the state board of health.

Minimum size of settling tank shall have a liquid capacity of 500 gallons. Sufficient open-jointed drains shall be provided and the construction shall be such that sewage shall at no time seep to or flow over the surface of the ground.

2. There shall be deemed to be a compliance with the requirements of the above of subsection (A) when the private sewerage system has been constructed in accordance with the plans and specifications of the state board of health.

#### *B. Pit privy.*

1. At any residence, place of business, or other building where there is not installed a water flush system of excreta disposal, there shall be established or installed a pit privy. Said pit privy shall be so constructed, built or re-built that:
  - a. The excreta deposited therein shall not fall upon the surface of the ground but shall enter into a vault or pit in the ground, or a compartment built for that purpose.
  - b. The contents of said vault shall at all times be inaccessible to flies, mosquitoes, fowl, or small animals.
  - c. The pit, vault, or compartment, together with the floor, riser, seat, and other portions, shall, as a unit, prevent the entrance of either rain or surface water into the pit below.
2. There shall be deemed a compliance with the requirements of the above portion of subsection (B) when the privy has been constructed in accordance with the plans and specifications of the state board of health.

(Ord. No. 131, § 4)

### **5.12.04. Repair.**

Should any defect occur in the private sewage disposal plant or privy which would cause it in any way to fail to meet the requirements as provided above, the defect shall be immediately corrected by the owner or agent of the premises on which the defect has occurred, unless the defect shall have been caused by neglect, destructiveness, or carelessness on the part of the occupant of the premises on which the defect has occurred, or

through his agent, in which case the defect shall immediately be repaired or corrected by the occupant, or the agent of the occupant of the premises on which the defect has occurred.

#### **5.12.05. Location of private waste facility.**

All privies, settling tanks, vaults, or similar receptacles of human excreta shall be so located as to preclude the possibility of surface or sub-surface contamination reaching the source of any public or private water supply provided that in no case shall the horizontal distance be less than 100 feet from the water supply and the distance shall be used only where ideal conditions indicate it to be sufficient and greater distances shall be required where local conditions demand.

(Ord. No. 131, § 6)

#### **5.12.06. Penalty.**

Any person, firm or corporation who violates, refuses, or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$5.00 or more than \$50.00.

(Ord. No. 131, § 7)

### **CHAPTER 5.16 SEPTIC TANKS**

#### **5.16.01. Water superintendent shall be inspector.**

The city water superintendent shall be the inspector, and shall regulate the erection, building and maintenance on all septic tanks now in use, or to be put in use, in the city and it shall be the duty of any person, persons, firm or corporation, intending to build or erect a septic tank within the city limits to first make application to the city water department superintendent. It shall be the duty of said inspector to see that such septic tank shall be in conformity with the recommendations of the state board of health.

#### **5.16.02. Overflows unlawful.**

It shall be unlawful to allow a septic tank to overflow or drain on the surface of the ground or in any street or ditch within the city.

### **CHAPTER 5.20 UNLAWFUL BURNING**

#### **5.20.01. Unlawful conduct.**

From and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful for any person to burn outdoors any leaves, paper, trash, wood debris, rubbish, or other substances except as is expressly allowed herein.

(Ord. No. 2010-14, § 1)

#### **5.20.02. Definitions.**

*Agricultural burning* means open burning in areas zoned agricultural is allowed pursuant to the restrictions in sections 5.20.03 and 5.20.04, with the following exception: A one-time permit is required that will not need to be renewed every time a fire is set, provided the location of the burn site does not change significantly. The fire department shall be notified every time a fire is set.

*Other substances* shall not be construed as covering any substance designed to be burned as a fuel, such as natural gas, propane, charcoal, gasoline or diesel fuel.

*Person* shall be construed to mean any individual, corporation or other legal entity.

*Residential/backyard burning* means open burning in residential areas is exempt from this chapter under the following conditions:

- A. The burning takes place in equipment or devices specifically manufactured for cooking, recreational enjoyment or outdoor use, including, but not limited to, gas or charcoal grill, fire pans or boxes, and chimineas;
- B. Only tree trimmings, limbs, firewood or materials expressly manufactured for cooking or recreational use are burned; and,
- C. A minimum separation distance of ten feet between the flame and any structure is maintained.

(Ord. No. 2010-14, § 2; Ord. No. 2014-20, § 2)

### **5.20.03. Limitation on burning.**

Outdoor burning covered by this chapter shall be allowed only with a permit issued pursuant to section 5.20.04, and subject to the following restrictions:

- A. Only leaves, brush, tree trimmings, fallen trees, cleared vegetation may be burned.
- B. The inspection and/or fire departments may impose additional restrictions as they see fit for public safety considerations.
- C. When an open burning permit is issued for the clearing of a large-scale development, the inspection and fire departments may impose additional restrictions as they deem necessary for public safety and environmental considerations.
- D. The minimum clearance from other combustible materials, including, but not limited to, brush, dry grass and buildings shall be 100 linear feet.
- E. The minimum clearance from fuel sources, including, but not limited to, gasoline, motor vehicles, liquefied petroleum or natural gas service meters shall be 200 linear feet.
- F. Any fire within 250 linear feet of a home, structure or other building shall have a dedicated water source accessible to the burn.
- G. No permitted fire shall be allowed to burn unsupervised. A permitted fire, as used herein, shall mean any fire with a visible flame.
- H. All visible flame shall be extinguished between sunset and sunrise.
- I. Piles of brush, trees or other vegetation larger than 25 feet in diameter shall require the availability of a loader, bulldozer or other equipment capable of pushing and covering the pile.
- J. All burn sites permitted shall have unobstructed access from a public road or right-of-way that would allow access for fire trucks, heavy equipment, and emergency vehicles.

(Ord. No. 2010-14, § 3; Ord. No. 2012-25, § 2)

### **5.20.04. Permit required.**

No person shall burn any substance encompassed by this chapter except in accordance with the permit.

- A. Any person seeking to burn under authority of this chapter shall complete a permit application. Applications will be issued only during regular weekly business hours between 8:00 a.m. and 4:00 p.m., Monday through Friday. The fire department will only approve an application after an inspection of the burn site is completed. The permit shall contain the following information:
  - 1. Location of the burn site;

2. Location of the material to be burned;
  3. Type of material to be burned;
  4. Date and time of planned burn;
  5. Name, address and telephone number of the person who will be present during the burn;
  6. Name, address and telephone number of applicant and land owner, if different; and
  7. Any other information required by the inspection and/or fire departments.
- B. No permit shall be issued until:
1. A fee in the amount of \$15.00 has been paid;
  2. The site and material have been inspected by the inspection and/or fire departments; and
  3. Any adjacent combustible material which constitutes an unreasonable fire risk has been removed.
- C. Nothing contained herein shall be construed in such a way as to deter the city from requiring cessation of a scheduled burn in the event weather or other conditions existing at the time of the burn create an unreasonable risk that was not apparent at the time of the inspection.

(Ord. No. 2010-14, § 4)

#### **5.20.05. Penalties.**

Any person convicted of a violation of this chapter may be fined an amount not to exceed \$500.00. Any person convicted of providing false information on a permit application under section 5.24.04 may be fined an amount not to exceed \$1,000.00. Each day of a continuing violation shall constitute a separate offense.

(Ord. No. 2010-14, § 5)

### **CHAPTER 5.24 HAZARDOUS RESPONSE TEAM**

#### **5.24.01. Parties.**

The proposed parties to the interlocal agreement are Washington County and the cities of Elkins, Farmington, Fayetteville, Goshen, Greenland, Johnson, Lincoln, Prairie Grove, Springdale, West Fork and Winslow.

(Ord. No. 2013-4, § 2)

#### **5.24.02. Authorization.**

A.C.A. 14-14-901 authorizes cities and counties to enter into contracts to cooperate or join with each other to provide services; such to specify the responsibilities of all parties.

(Ord. No. 2013-4, § 3)

#### **5.24.03. Need for interlocal agreement.**

All parties acknowledge that the continued provision of hazardous response team services is crucial for the continued health and safety of the residents of the named cities and county and the parties mutually agree that the interlocal cooperation for the provision of such services, as provided for in A.C.A. 14-14-910, is in the best long-term interests of the parties.

(Ord. No. 2013-4, § 4)

#### **5.24.04. Interlocal agreement attached.**

The attached interlocal agreement provides for the interlocal cooperation of the county and cities therein to utilize the existing hazardous response teams of Fayetteville and Springdale, pursuant to state law. The attached interlocal agreement is hereby incorporated herein as if set forth word-for-word.

(Ord. No. 2013-4, § 5)

#### **5.24.05. Authorized officials.**

The mayor and clerk are hereby authorized to sign the interlocal agreement to bind the city to the terms of such agreement. The mayor and clerk are further authorized to take such steps as are necessary and incident to its implementation.

(Ord. No. 2013-4, § 6)

# TITLE 6

## ANIMALS AND FOWL

### CHAPTER 6.04 DOGS

#### 6.04.01. Animal control officer.

There is hereby created the position of animal control officer. The animal control officer shall be under the supervision of the chief of police and shall be responsible for administration and enforcement of all animal control provisions, and other duties as assigned.

(Ord. No. 2014-1, § 1)

#### 6.04.02. Definitions.

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

*Animal* means any dog or cat.

*At large* means off the premises of the owner and not under the control of the owner or other responsible person, either by leash, cord, chain or otherwise.

*Neutered* means a sterilized animal and shall include spayed or neutered animals.

(Ord. No. 2014-1, § 2)

#### 6.04.03. Licensing required.

Effective January 1, 2014, all dogs and cats, six months of age or older, within the city limits shall be licensed with the city, and shall be required to display a license tag or be micro-chipped and registered. Persons who move into the city or obtain new animals during the year shall license their animal (if applicable) and register such animal with the city within 15 days and their fee shall be prorated. Licensing fees are as follows:

Neutered/spayed animals	\$10.00 per year
Unneutered/unspayed animals	\$25.00

If annual licensing fees are not paid by May 1, the fees above shall be doubled (except for animals not yet six months of age, newly acquired animals and persons moving into the city). Animals with a registered micro-chip are entitled to a \$5.00 discount.

(Ord. No. 2014-1, § 3)

#### 6.04.04. Rabies vaccination required.

All dogs and cats within the city limits shall have a current rabies vaccination.

(Ord. No. 2014-1, § 4)

#### 6.04.05. Rabies prevention.

Authority provided herein is in addition to and not in place of authority provided by the Rabies Prevention Act, A.C.A. 20-19-301.

(Ord. No. 2014-1, § 5)

#### **6.04.06. Running at large.**

It shall be unlawful for any person to allow a dog or an unsprayed/unneutered cat to run at large within the city limits.

(Ord. No. 2014-1, § 6)

#### **6.04.07. Confinement of dogs.**

All dogs kept in the city limits shall be confined indoors or to a fenced area of sufficient height and strength to prevent the enclosed animal from escaping. The fenced area may not encompass access to the front door of the main building on the property or any secondary residential structures. When a fenced enclosure contains public utilities including, but not limited to: water, electric, and gas meters; phone pedestals; electric poles; water valves; fire hydrant; or any other public facility that requires access; access must be made available to regularly receive service, or operate those facilities without a risk of interference from dogs contained within.

(Ord. No. 2015-22, § 2)

#### **6.04.08. Capture and redemption.**

- A. The animal control officer may take into custody any dog or cat found running at large within the city limits and to place such animal into any facility designated by the city.
- B. The animal control officer will scan the dog or cat for a micro-chip and contact the owner for redemption. If the animal is not micro-chipped, the animal control officer should use any other identifying information to contact the probable owner, if available.
- C. All animals shall be held a minimum of five days for redemption. If the owner of the animal is known, the city shall hold the animal for redemption for a minimum of five days following notice to the owner. The day the animal is captured shall count as the first day.
- D. Owners wishing to redeem their animals shall pay the appropriate redemption fee as set forth in section 6.04.09. No animal may be redeemed unless that animal has been licensed and has a valid rabies vaccination.
- E. After the required holding period in section 6.04.08(C) in city possession, the animal control officer is authorized to place an animal for adoption, to euthanize the animal, or to otherwise dispose of the animal in a humane manner.

(Ord. No. 2014-1, § 8)

#### **6.04.09. Redemption and relinquishment fees.**

- A. For the first redemption of an animal, the owner shall be charged a redemption fee of \$20.00 for a neutered animal and \$40.00 for an unneutered animal.
- B. For a second redemption in a 12-month period, the owner shall be charged a redemption fee of \$50.00 for a neutered animal and \$100.00 for an unneutered animal.
- C. For a third redemption in a 12-month period, the owner shall be charged a redemption fee of \$100.00 for a neutered animal and \$200.00 for an unneutered animal.
- D. Micro-chipped animals registered with the city are entitled to a \$10.00 reduction in the above fees.
- E. An owner may take advantage of paying the redemption fee for a neutered animal instead of the redemption fee for an unneutered animal if they provide proof of sterilization by a licensed veterinarian within seven days of redemption. The city will rebate the difference to the owner within seven days of providing proof of sterilization.

- F. In addition to the redemption fees above, an owner shall pay a maintenance fee of \$5.00 for every day the animal was impounded. If the owner redeems the animal on the day it is impounded, there shall be no maintenance fee charged.
- G. If an animal required emergency veterinary care during impoundment, the owner must reimburse the city for the cost of such care prior to redeeming the animal.
- H. An owner that wishes to relinquish ownership of an animal to the city may do so by paying a relinquishment fee of \$40.00.
- I. Redemption and relinquishment fees are not in lieu of fines, fees or costs that may be imposed by a court for violation of city animal control laws.
- J. An adoption fee of \$40.00 for any dog or \$20.00 for any cat shall be charged to anyone adopting an animal. In addition, a micro-chipping fee of \$15.00 for each animal adopted shall be charged. All animals adopted from the city animal shelter shall be neutered and micro-chipped prior to adoption. The fee for micro-chipping an animal not being adopted shall be \$20.00, and will only be allowed as employee time allows.
- K. The mayor is authorized to waive adoption fees for animals for special event. Such a waiver must be in writing and must state the period adoption fees are waived.

(Ord. No. 2014-12, § 2; Ord. No. 2015-2, § 2; Ord. No. 2018-07, § 2)

#### **6.04.10. Restrictions on number of dogs and cats.**

From and after the effective date, no person shall keep more than five dogs and/or cats on any single premises, unless they shall first obtain a kennel license.

(Ord. No. 2014-1, § 10)

#### **6.04.11. Kennels.**

Any person desiring to keep more than five dogs and/or cats at any single premises shall be required to obtain a business privilege license as a kennel, pursuant to chapter 4.20. A kennel license is only available in areas zoned agricultural.

(Ord. No. 2014-1, § 11)

#### **6.04.12. Violations.**

- A. Any person who violates any provision of chapter 6.04 shall be guilty of a violation and fined an amount not less than \$25.00 or more than \$100.00 per offense. Every day of violation shall constitute a separate offense.
- B. The police department or animal control officer may return an animal to an owner outside of normal business hours. If an owner fails to pay any redemption or care fees within five business days, they shall be guilty of a violation. Every day of violation shall constitute a separate offense.

(Ord. No. 2014-1, § 12)

#### **6.04.13. Agricultural zones.**

The provisions of sections 6.04.06 and 6.04.07 shall not apply in areas zoned agricultural and with property size in excess of five acres.

(Ord. No. 2014-20, § 3)

## **CHAPTER 6.08 OTHER ANIMALS AND FOWL**

### **6.08.01. Definitions.**

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

*Fowl* means any bird.

*Livestock* means cattle, horses, mules, donkeys, swine, sheep, goats or rabbits.

*Poultry* means chickens, turkeys, geese or ducks.

(Ord. No. 2014-1, § 2)

### **6.08.02. Keeping of livestock.**

It shall be unlawful for any person, firm or corporation to keep any cattle, horse, mule, swine, sheep, goat, rabbit or poultry within the city, except:

- A. In areas zoned for agricultural or industrial uses, provided the animals are properly confined; or
- B. When no more than two rabbits, chickens, ducks or geese are kept as pets; or
- C. When chickens are kept pursuant to section 6.08.11; or
- D. For animals kept for educational purposes (e.g., FFA, 4H).

(Ord. No. 2018-07, § 3)

### **6.08.03. Disturbing the peace.**

It shall be unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night. Animals kept in areas zoned agricultural are exempt from this section.

(Ord. No. 2014-1, § 2)

### **6.08.04. Releasing animals.**

It shall be unlawful for any person owning or having control of any livestock or fowl to release the same to run at large within the city.

(Ord. No. 2014-1, § 2)

### **6.08.05. Condition of stables.**

No person shall cause or allow any stable or place where any animal or fowl is or may be kept to become unclean, or unwholesome.

(Ord. No. 2014-1, § 2)

### **6.08.06. Reserved.**

### **6.08.07. Redemption.**

The owner or owners of any animal impounded herein may redeem the same by paying all the costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption, and when the same are paid to the city, the animal or animals shall be released to the owner thereof.

(Ord. No. 2014-1, § 2)

#### **6.08.08. Reptiles.**

No dangerous, poisonous or venomous reptiles may be maintained by any person, other than a governmental entity for educational purposes.

(Ord. No. 2014-1, § 2)

#### **6.08.09. Disposal of impounded animals.**

If the owner fails to redeem the animal within five days of impounding, the animal control officer is authorized to dispose of the animal by sale, or the humane destruction and disposal of the animal.

(Ord. No. 2014-1, § 2)

#### **6.08.10. Violations.**

Any person who violates any provision of chapter 6.08 shall be guilty of a violation and fined an amount not less than \$25.00 or more than \$100.00 per offense. Every day of violation shall constitute a separate offense.

(Ord. No. 2014-1, § 2)

#### **6.08.11. Residential chickens.**

- A. Female chickens only may be kept in areas zoned single-family residential (R-1, R-1.5, R-1.75). No roosters shall be allowed. All such animals shall be a breed that cannot fly or must have their wings clipped to prevent flight.
- B. A maximum of four chickens shall be allowed on lots of 5,000 square feet or smaller. For lots larger than 5,000 square feet, one additional bird shall be allowed for every 1,250 square feet, up to a maximum number of 20 birds.
- C. There shall be no outside slaughtering of birds.
- D. Birds shall be supplied with sufficient good and wholesome food and water.
- E. All fowl shall have a coop/roost that is constructed with a minimum of three square feet per bird and, during daylight hours, birds shall have access to a secure enclosure/yard that is adequately fenced to protect them from predators. The coop/roost shall be kept in the side or rear yard, and is not permitted in the front yard area. Where a rear yard extends to an adjacent street, the birds shall not be permitted past the lot line on which the house sits.
- F. The coop/roost structure shall not be located closer than 25 feet to any residential structure on an adjacent lot, and shall meet the building setbacks of the applicable zoning district.
- G. The coop/roost structure shall be well ventilated and provide protection from the weather and predators. The coop/roost area must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city or other persons. The owner shall provide for the storage and removal of manure. Stored manure to be used for composting shall be fully covered or placed in an enclosure. All manure not used for composting or fertilizing shall be removed and properly disposed.
- H. Illegal fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of the ordinance from which this section is derived.

- I. The city may further restrict or prohibit the keeping of fowl within residential districts, with a neighborhood or on a particular property if the city council determines that fowl and created a public nuisance or public health issue.

(Ord. No. 2018-07, § 4)

## **CHAPTER 6.12 VICIOUS ANIMALS**

### **6.12.01. Definition.**

*Dangerous or vicious animal* shall be used to describe an animal that has demonstrated by prior conduct or contemporaneous attitude toward another animal or a human a reasonable likelihood to attack and seriously injure either. An animal that has bitten or attempted to bite a human or another domestic animal:

- A. In direct response to being tormented by that human or other animal, or
- B. When that human or other animal invaded an enclosed area being protected by such animal, shall not be considered a dangerous or vicious animal.

(Ord. No. 2014-19, § 1)

### **6.12.02. Dangerous or vicious animals banned.**

No person shall harbor, own or possess any dangerous or vicious animal within the corporate limits of the city.

(Ord. No. 2014-19, § 2)

### **6.12.03. Ferae naturae prohibited.**

It shall be unlawful for any person to harbor, own or possess a ferae naturae, except to transport one from one location outside the city corporate limits to another location outside the city corporate limits.

(Ord. No. 2014-19, § 3)

### **6.12.04. Impoundment pending determination.**

Whenever any person is charged with a violation of section 6.12.02, the city is authorized to impound the offending animal pending a court determination that the animal is dangerous or vicious.

(Ord. No. 2014-19, § 4)

### **6.12.05. Penalty for violations.**

- A. Any person found guilty of violating section 6.12.03 shall be fined an amount of no less than \$25.00 and no more than \$100.00 for each violation.
- B. Any person found guilty of violating section 6.12.02 shall be fined an amount of no less than \$100.00, and no more than \$1,000.00. In addition any animal determined to be dangerous or vicious by the court may be destroyed three business days following such determination. Persons desiring to postpone euthanasia pending appeal of such conviction to circuit court must first pay all costs for the animal's impoundment to date, plus a \$500.00 deposit with the city to be applied toward the continued impoundment during their appeal.

- C. Upon a ruling by the court that an animal is not dangerous or vicious, the animal shall be released to the owner without charge. If the court rules that an animal is dangerous or vicious, the owner shall be responsible for the costs of impoundment in addition to any fines, fees or costs assessed herein.

(Ord. No. 2014-19, § 5)

## **CHAPTER 6.16 CONTROL OF ANIMAL FECES**

### **6.16.01. Actions prohibited.**

The owner of an animal shall be responsible for the removal and proper disposal of fecal matter deposited by their animal on public lands, including parks and recreation area, public streets and sidewalks, within the city limits.

(Ord. No. 2010-4, § 1)

### **6.16.02. Enforcement.**

Any police officer and the city's animal control officer are authorized to issue citations to any person who violates this chapter in their view or presence.

(Ord. No. 2010-4, § 2)

### **6.16.03. Penalty.**

Any person convicted of a violation of this chapter shall pay a civil penalty of \$25.00 for the first offense and \$50.00 for subsequent offenses occurring within six months of the prior conviction.

(Ord. No. 2010-4, § 3)

# TITLE 7

## PUBLIC PEACE, SAFETY AND MORALS

### CHAPTER 7.04 STATE CRIMINAL STATUTES AND PENALTIES

#### **7.04.01. State criminal statutes adopted.**

All criminal statutes of the state relating to misdemeanors and the laws of criminal procedure in connection therewith, three copies of which are on file in the city clerk's office, are hereby enacted by the city council to form a part of the laws of the city and any person, firm or corporation being found guilty of the violation of any such laws shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the amount set out under the state statutes.

(Concept from Ord. No. 148-63)

State law reference(s)—A.C.A. 14-55-501.

#### **7.04.02. State penalties adopted.**

The same minimum and maximum penalties for the violation of misdemeanors as are provided in the state statutes are hereby adopted as the minimum and maximum fines for the violation of the same offenses which are prohibited by the ordinances of this city.

(Concept from Ord. No. 148-63)

State law reference(s)—A.C.A. 14-55-502.

#### **7.04.03. Arkansas Criminal Code adopted.**

- A. The Arkansas Criminal Code, compiled and annotated as Ark. Stat. Title 41 through Title 48 inclusive, is hereby adopted by incorporation by reference as fully and completely as if the entire text thereof shall have been set forth word-for-word herein.
- B. The council hereby further expressly declares that all subsequent amendments to the said Arkansas Criminal Code are hereby adopted by incorporation by reference from the date of their subsequent enactment by the General Assembly.

(Ord. No. 79-3)

#### **7.04.04. Controlled Substances Act adopted.**

- A. The Uniform Controlled Substances Act of 1971, annotated at A.C.A. 5-64-101—5-64-608, is hereby adopted in full as amended by incorporation by reference.
- B. The subsequent amendments to the said Uniform Controlled Substances Act are further adopted by incorporation by reference as they are enacted, published and promulgated.

(Ord. No. 79-2)

## CHAPTER 7.08 CURFEW

### 7.08.01. Civil emergencies.

The mayor, any time a condition has arisen or is imminent, which in his judgment constitutes a civil disturbance, riot, insurrection or time of local disaster, may declare a state of emergency and impose a curfew for such time and for such areas as he deems necessary to meet such emergency; provided, however, such curfew shall not extend for over a period of 48 hours unless extended by a majority vote of the members of the governing body.

### 7.08.02. Congregating during state of emergency.

No person or persons shall congregate, operate any businesses or be upon the streets or other public ways, unless on official business for the city or state, in any area or areas designated by the mayor as curfew areas in the city during the time of any declared emergency.

## CHAPTER 7.12 LOITERING, UNDERAGE

### 7.12.01. Finding and purpose.

The city council finds that special circumstances exist within the city that call for special regulation of minors within the city in order to protect them from each other and from other persons on the street during the nocturnal hours, to aid in crime prevention, to promote parental supervision and authority over minors, and to decrease nocturnal crime rates.

(Ord. No. 99-7, § 1)

### 7.12.02. Definitions.

For purpose of this curfew ordinance, the following terms, phrases, words, and their derivation shall have the meanings ascribed to them by this section:

*City* means the City of Prairie Grove, Arkansas.

*Emancipated minor* means a minor who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.

*Legitimate parentally approved errand* means a minor performing a necessary task at the direction of the minor's parent, and the non-performance of the errand, or delay of the performance until after curfew hours have abated, would result in injury or undue hardship.

*Minor* means any unemancipated or unmarried person under the age of 18 years of age.

*Parent* means any person having legal custody of a minor: (1) as a natural parent, (2) as an adoptive parent, (3) as a legal guardian, (4) as a person whom legal custody has been given by order of the court.

*Public places* means a publicly or privately owned place to which the public or substantial numbers of people have access. A public place does not include the residence of a minor, or the residence of a minor's parent, or a responsible adult.

*Responsible adult* means a person at least 21 years of age to whom a parent has expressly given permission to accompany a minor.

(Ord. No. 99-7, § 2)

### **7.12.03. Curfew for minors.**

- A. It shall be unlawful for any minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger in any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places between the following hours:
  - 1. On Sunday through Friday evenings from 10:00 p.m. through 5:00 a.m. (seven hours);
  - 2. On Saturday evenings beginning at 11:00 p.m. through 5:00 a.m. (six hours).
- B. It shall be unlawful for any parent to permit a minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate a vehicle in, upon, over or through the streets, or other public places in violation of subsection (A) above. The fact that a minor is in violation of the provisions of subsection (A) hereinabove, without a defense as set forth in subsection (A) shall create a rebuttable presumption that a parent is in violation of this subsection.

(Ord. No. 99-7, § 3; Ord. No. 2018-15, § 2)

### **7.12.04. Exceptions to curfew.**

- A. Notwithstanding the provisions of section 7.12.03, the minor curfew ordinance does not apply:
  - 1. At any time a minor is accompanied by a parent, or by a responsible adult authorized by a parent to take the parent's place to accompany the minor for a designated period of time and purpose within a specified area.
  - 2. If the minor is employed, for a period of time 45 minutes after work, provided that circumstances suggest the minor is returning from work to a place of residence.
  - 3. When a minor is returning home from an activity that is supervised by adults and sponsored by the city, a civic organization, a public or private school, or any entity that takes responsibility for the minor, provided that the activity has not concluded for more than 45 minutes.
  - 4. At any time the minor is on a legitimate parentally approved errand.
  - 5. At any time the minor is on a trip in interstate commerce.
  - 6. At any time the minor is required to leave a residence because of an emergency.
  - 7. At any time the minor is engaged in a activity that is protected by the First Amendment to the United States Constitution, or the freedom of speech, religion or expression provisions in Article II of the Arkansas Constitution.
- B. If a minor being questioned about the possible violation of the curfew ordinance provides law enforcement officer with sufficient reason to believe that the minor is entitled to an exemption as set out above, the law enforcement officer shall take no enforcement action under this article, provided the officer may make a report of the minor's identity, the exemptions claimed, and other necessary information to note the possible violation of this article.

(Ord. No. 99-7, § 4)

### **7.12.05. Penalties and law enforcement.**

- A. A parent or minor found to be in violation of this article shall be subject of the penalties provided in the Prairie Grove Municipal Code.
- B. At the discretion of the law enforcement officer, any minor receiving a citation for violation of the minor curfew ordinance may be released to immediately return home, may be escorted to his/her home, or may be taken into custody and delivered to an appropriate juvenile authority to be hold until a parent can be located to take custody of the minor.

- C. Nothing in this section shall preclude a law enforcement officer from taking any or all appropriate actions for a minor's violation of any other local or state law.

(Ord. No. 99-7, § 5)

## **CHAPTER 7.16 OUTSIDE FIRE SERVICE**

### **7.16.01. Authority to dispatch.**

No fire department apparatus shall be taken beyond limits of the city to assist at any fire or for any other purpose, except by order of the mayor or fire chief or such other person as they may designate, and subject to the restrictions and conditions hereinafter set forth.

### **7.16.02. Restrictions.**

The mayor or fire chief or such other person a they may designate are authorized, in their discretion, to aid in the extinguishing of fires in another city, (or town), public institutions, corporation, or other properties within a reasonable distance from the city or on property immediately adjacent to the city in which there is a possibility of fire spreading within the corporate limits, under the following conditions:

- A. A request from a city or incorporated town for assistance must come only from the mayor, fire chief or such other person as may be designated by mutual agreement.
- B. Calls may be responded to only by such apparatus which in the judgment of the mayor or fire chief or such other person as they may designate can be safely sent without unduly impairing the fire protection within the city, and when highways and weather conditions are favorable.
- C. The city, incorporated town, public institution, corporation, or individual requesting assistance must pay the charge for apparatus and service hereinafter provided unless there exists a mutual aid agreement.
- D. The city, incorporated town, public institution, corporation or individual must compensate the city for any loss or damage to such apparatus while answering such call, and be responsible to the members of the fire department of the city for any injuries suffered or incurred by them while responding to such calls and while working at such fire, unless otherwise covered by insurance.

### **7.16.03. Cost of aid without mutual aid agreement.**

Unless there exists a mutual aid agreement, every municipality, institution corporation, or individual requesting and receiving service of the fire department of the city, shall pay for such service and the use of apparatus as follows:

Pumper: \$50.00, within two miles of station; \$5.00 additional for each mile or fraction thereof.

Each person, city, firm or corporation receiving service of the fire department, unless there exists a mutual aid agreement, shall pay to the city for each fire driver a sum representing \$3.00 per hour or part thereof from the time the apparatus leaves the fire house until it returns thereto, and as to each fireman helping at the fire, a sum representing \$3.00 per hour or part thereof, from the time he reports until the time his service ends. The payments herein stipulated shall be made to the city treasurer within 15 days after demand.

### **7.16.04. Mutual aid agreement.**

The mayor and chief of the fire department, are thereby authorized to enter into mutual aid agreements, with other municipalities, firms, corporations, or individuals, for the rendering of fire service, subject to the following conditions:

- A. That the parties with whom such mutual aid agreements are entered into shall agree to indemnify the city against any or all loss, cost, and damage which it may suffer or sustain by reason of damage to any apparatus arising from any cause whatsoever while such apparatus is going to or from the scene of the fire or while at the scene of the fire. The duty to indemnify shall be performed within 15 days after demand.
- B. As to each fire driver injured while driving to or from the fire, or while at the scene of the fire, and as to each fireman helping at the fire, injured between the time he reports to the foreman of his company and the time his service ends, the person entering into such mutual aid agreements shall pay within 15 days after demand to the city a sum sufficient to cover the medical and hospital expenses by such injured driver or fireman.

#### **7.16.05. Rural fire association and members not affected.**

Nothing contained in this chapter shall prohibit the city council from entering into a mutual aid agreement with the Prairie Grove Rural Fire Association. Nothing contained herein shall preclude the city council from entering into any sort of mutual contracting agreement for the providing of fire protection service for the city rural fire association and its members. Any such agreement, encompassing fire protection service for the association and its members, shall be set forth in writing and approved by resolution of the city council.

### **CHAPTER 7.20 SOLICITORS**

#### **7.20.01. Definitions.**

The following definitions shall be used in construing this chapter:

*Canvasser* means any person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the primary purpose of:

- A. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or
- B. Distributing a handbill or flyer advertising a non-commercial event or service.

*Charitable* means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.

*Contributions* means and includes the words alms, money, subscription, property or any donations under the guise of a loan, or money, or property.

*Solicitation* includes all activities ordinarily performed by a solicitor as described below.

*Solicitor* means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the purpose of selling goods or services, or the taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property to request contributions of funds, or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purpose.

(Ord. No. 2010-21, § 3)

#### **7.20.02. Registration required.**

Every solicitor within the corporate limits of the city shall register with the city on a form provided by the city. In the case of a non-profit organization using minors as solicitors, an adult sponsor shall register with the city.

Registrations shall be effective for a two-week period. Applicants must furnish a copy of a photo ID when registering. All persons shall carry a copy of their registration with them while soliciting.

(Ord. No. 2017-10, § 2)

### **7.20.03. No-knock list.**

- A. The city business clerk shall maintain city stickers, free of charge to any resident, that may be placed on or around the entrance to any residential dwelling, and that will inform any solicitor that the occupant does not wish to be contacted by such solicitor. It shall be unlawful for any solicitor to contact any resident displaying such sticker.
- B. In addition, any solicitor shall avoid any residence upon which a sign of any type containing the words "No Solicitation" or words of similar import is located either upon the entrance to the property, or upon or near the door of any residence.

(Ord. No. 2018-26, § 2)

### **7.20.04. Time limitations.**

No solicitation or canvassing activities shall be permitted between the hours of 8:00 p.m. and 9:00 a.m.

(Ord. No. 2010-21, § 3)

### **7.20.05. Penalty.**

Any person who has registered as a solicitor who fails to abide by these requirements may have his registration revoked immediately and will be ineligible for another registration for a period of 12 months. Any person convicted of violating this chapter shall be fined a penalty not to exceed \$25.00 for every day of violation.

(Ord. No. 2017-10, § 3)

## **CHAPTER 7.24 NOISE**

### **7.24.01. Prohibited.**

Unreasonable loud, disturbing and unnecessary noise within the limits of the city is prohibited.

The noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in the disturbance of the public peace and welfare is prohibited.

(Ord. No. 140, §§ 1, 2)

### **7.24.02. Acts considered noise.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive, namely:

- A. The maintenance and operation of an outside loud speaker or public address system transmitting music, advertising or speaking is prohibited except upon permit issued by a person designated to issue permits by the city council; and notwithstanding said permit, any such loud speaker or public address system shall not be operated in such a manner or at such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, dwelling house, hotel, tourist court or other type of residence, or of any person or persons in the vicinity.
- B. The keeping of any animal, bird, fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

- C. The playing of any radio, phonograph or any musical instrument in such a manner or at such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, dwelling house, hotel, tourist court, or other type of residence, or of any person in the vicinity.
- D. The sounding of any horn or signal device on any automobile, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound, and the sounding of such device for an unnecessary and unreasonable period of time.
- E. Yelling, shouting, hooting, whistling or singing or unnecessary use of noise-making devices on the public streets, particularly between the hours of 9:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, dwelling house, hotel, tourist court, or other type of residence, or of any persons in the vicinity.
- F. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session or adjacent to any hospital, which unreasonably interfered with the working of sessions thereof.
- G. The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, shows, sale or display of merchandise shall be only by permit as set forth in subsection (A) above, and shall be subject to the same limitations, violations and penalties as therein provided, and at no time shall the noise thereby created be in such a manner and such volume as to annoy or disturb the comfort or repose of persons in any office, hospital, dwelling house, hotel, tourist court or other type of residence, or any person in the vicinity.
- H. Loud activities associated with construction activities outside of normal daylight hours occurring from 9:00 p.m. to 7:00 a.m.
- I. From and after the effective date hereof the creation or emission of engine exhaust noise through the use of "Jacob Brakes" or other similar engine compression retarding device so as to create a loud or raucous noise shall be prohibited, except when used as a safety device.

(Ord. No. 140, § 3; Ord. No. 03-7, § 1; Ord. No. 2005-6, § 1)

### **7.24.03. Exception.**

None of the terms or prohibitions hereof shall apply to or be enforced against:

- A. Necessary warning signals given by police cars, fire trucks, voluntary firemen or licensed physicians while such persons are answering an emergency call.
- B. The reasonable use of amplifiers or loud speakers in the course of public addresses which are non-commercial in character.
- C. Work declared to be an emergency or construction that is necessary to insure the health and safety of the residents.

(Ord. No. 140, § 4; Ord. No. 2003-7, § 2)

### **7.24.04. Penalty.**

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$10.00 and not more than \$50.00 for each offense.

(Ord. No. 140, § 5)

#### **7.24.05. Permits.**

Permits for the operation, maintenance and use of amplifiers or loud speakers as hereinabove set forth in section 7.24.02 shall be issued for the said amplifiers, loud speakers or public address systems to be operated only between the hours of 8:00 a.m. and 8:00 p.m. daily. Permits will be issued for operations at other hours, such permits to be special permits and for special occasions.

(Ord. No. 140, § 7)

### **CHAPTER 7.28 OPEN CONTAINERS OF INTOXICATING LIQUOR PROHIBITED**

#### **7.28.01. Definitions.**

*Beer* means any fermented liquor made from malt or any substitute therefore and having an alcoholic content not in excess of five percent by weight.

*Intoxicating liquor* means vinous, ardent, malt fermented liquor or distilled spirits with an alcoholic content in excess of five percent by weight.

#### **7.28.02. Open containers illegal; penalty.**

It shall be unlawful for any person to have in his possession or control an open container or containers of "intoxicating liquor" and/or beer in any public place, highway or street, or in or upon any passenger coach or train, automobile, bus or other public conveyance. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than \$25.00 nor more than \$100.00.

(Ord. No. 75-6, §§ 2, 3)

#### **7.28.03. Consumption illegal; penalty.**

It shall be unlawful for any person to drink any "intoxicating liquor" and/or "beer" in any public place, highway or street, or in or upon any passenger coach or train, automobile, bus or other public conveyance. Any person violating provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than \$25.00 nor more than \$100.00.

(Ord. No. 1975-6, § 4)

#### **7.28.04. Waiver.**

The mayor is granted the authority to issue a waiver of the enforcement of the ban on open containers of beer and intoxicating liquor, and the public consumption thereof, to organizations and governmental entities for the purpose of celebrating special events. Such waivers shall be in writing and state the dates, hours and locations the waiver is in effect.

(Ord. No. 2015-10, § 2)

### **CHAPTER 7.32 PUBLIC PROPERTY OFFENSES**

#### **7.32.01. Definitions.**

For the purposes of this chapter, 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 plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(Ord. No. 75-2, § 2)

### **7.32.02. Offenses against public property.**

No person in the city shall:

- A. Willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real property or improvements thereto, or movable or personal property, belonging to the city.
- B. Tamper with, injure, deface, destroy or remove any sign, notice, marker, fire-alarm box, fire-plug, or any other personal property erected or placed by the city.

(Ord. No. 75-2, § 3)

### **7.32.03. Penalties.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined an amount not less than \$500.00, nor more than \$1,000.00.

(Ord. No. 75-2, § 4)

## **CHAPTER 7.36 PRAIRIE GROVE WATER SUPPLY LAKE FISHING**

### **7.36.01. Short title.**

This chapter shall be known and may be cited as the "Prairie Grove Water Supply Lake Fishing Permit Ordinance."

(Ord. No. 80-3, § 1)

### **7.36.02. Declaration of policy.**

It is hereby declared to be the purpose of this chapter to regulate by permit fishing on the Water Supply Lake in order to protect the public safety, health and welfare and to enhance recreational facilities of the people of Prairie Grove and the surrounding area.

(Ord. No. 80-3, § 2)

### **7.36.03. Administration.**

- A. *Supervisor.* There is hereby created the position of lake supervisor, who shall be responsible for enforcement of the provisions of this chapter and the rules and regulations promulgated in furtherance hereof. The supervisor may be authorized to issue citations and summons to any person who violates the rules and regulations set out herein. The supervisor shall be appointed by the mayor subject to confirmation by the city council.
- B. *Permit required.* The city council expressly declares that no persons shall enter the entry points of the access roads or fish from the water supply lake without first obtaining a permit from the city. The cost of such permit shall be \$4.00 per person plus \$6.00 per boat daily payable in advance. The permit shall be effective from sunup to sundown during the day for which the permit is acquired. Permits may be obtained from the lake supervisor under rules and regulations promulgated by the lake supervisor.
- C. *Termination of permit issuance.* The mayor of the city or the city health officer are authorized to terminate activity on the lake at their discretion.

(Ord. No. 80-3, § 3; Ord. No. 81-1; Ord. No. 2021-29 , § 2, 9-20-2021)

#### **7.36.04. Violation.**

Any person found to molest, litter or in any way harm the lake or the surrounding area shall be in violation of this chapter and subject to penalty.

(Ord. No. 80-3, § 4)

#### **7.36.05. Adoption of state board of health rules.**

- A. *Rules adopted by reference.* The rules and regulations pertaining to public water systems promulgated by the state board of health and codified at section 7(b) of these said published rules is hereby adopted and incorporated herein by reference as fully as if they had been set forth word-for-word herein.
- B. *Copies of rules to be kept.* The city clerk is hereby directed to keep on file three copies of the rules described in section 5(a).
- C. *Enforcement.* Any violation of any rule set out in the rules and regulations described in section 5(a) shall be a violation of this chapter. Those said rules shall be enforced and failure of any employee of the city to enforce the same shall be a reasonable ground for dismissal.

(Ord. No. 80-3, § 5)

#### **7.36.06. Penalty.**

The city court shall have original jurisdiction in all persecutions arising out of the enforcement of this chapter. Any person found guilty of violating any provision hereof or regulation promulgated hereunder shall be fined a sum of not less than \$25.00 nor more than \$100.00. Each day a person is in violation of any provision of this chapter shall be deemed a separate offense.

(Ord. No. 80-3, § 6)

### **CHAPTER 7.40 FIREWORKS**

#### **7.40.01. Illegal to possess.**

It shall be illegal for any person to keep on hand, sell or offer for sale any firecrackers, Roman candles, sky rockets, or any other kind of fireworks within the corporate limits.

#### **7.40.02. Illegal to discharge.**

It shall be illegal for any person to shoot off, fire, or discharge within the city limits fireworks of any kind or description whatever, except between the hours of 9:00 a.m. to 11:00 p.m. on July 4th of every year. This prohibition shall not apply in areas zoned agricultural and with property size in excess of five acres. Regardless, no stick rockets shall be allowed at any time within the city limits.

Fireworks stands shall not be allowed to operation along U.S. Highway 62-B from Baggett Street to Wayne Villines Road and on U.S. Highway 62 from the Illinois River Bridge to Parks Street.

(Ord. No. 2014-20, § 4; Ord. No. 2015-4, § 2)

#### **7.40.03. Penalty.**

Any person who shall violate any of the provisions of this chapter shall upon conviction be fined in any sum of not more than \$25.00 for each offense.

(Concept from Ord. No. 23)

#### **7.40.04. Waiver.**

The mayor, after consultation with the police chief and fire chief, is granted the authority to issue a waiver of the enforcement of the ban on discharging fireworks found in section 7.40.02 to organizations and governmental entities for the purpose of celebrating special occasions. Such waivers shall be in writing and state the dates and hours the waiver is in effect.

(Ord. No. 2013-28, § 2)

### **CHAPTER 7.44 SHOOTING GALLERIES**

#### **7.44.01. Private shooting galleries.**

A. From and after the date of passage hereof it shall be unlawful for any person to discharge any firearm or to propel with any air or spring gun any lead, stone or other object of similar substance except as is provided herein.

B. The following definitions shall have application in the course of enforcement of this chapter:

*Private indoor firing range* means an indoor facility where firearms are tested for firing proficiency in association with another vocation or business of the owner of it and where discharge of firearms is limited to use by the owner of the facility.

*Shooting gallery* means an indoor facility where patrons are allowed to discharge a firearm for a fee; or where participants are allowed to discharge firearms in competition for sport or pleasure.

C. It shall be unlawful for a person to establish or maintain a shooting gallery within the city limits.

D. It shall be unlawful for any person to establish or maintain a private indoor firing range except as shall be allowed by this chapter.

E. A private indoor firing range may be established only with a conditional use permit in an A-1 (agricultural) zone if the following criteria are met:

1. The building which houses the facility is insulated to such an extent that the noise from it does not become a public or private nuisance; and
2. The chief of police, after an inspection of the premises, finds that no public safety hazards exist and recommends that a conditional use permit be granted.

F. No person shall operate a private indoor firing range in such a manner as to constitute a public or private nuisance. Nothing herein shall be construed in such a way as to limit the right of the city or any resident thereof to bring a civil action to abate a public or private nuisance.

G. The location of a private indoor firing range shall be allowed only in an A-1 (agricultural) zone and only then on authority of a conditional use permit.

H. Notwithstanding the language of subsection (A), the discharge of a firearm by a law enforcement or animal control officer in the performance of his duty shall not constitute a violation of it.

I. Any person convicted of violating any provision of this chapter may be fined an amount not to exceed \$1,000.00 and that sum may be levied, in the case of a continuing violation, for each day a violation exists.

(Ord. No. 2000-8, §§ 1—9)

#### **7.44.02. Commercial firing ranges.**

A. Commercial firing ranges shall be defined as follows:

*Commercial firing range* means an indoor or outdoor area where firearms can be tested, demonstrated, fired or serviced for commercial sales, repair, or service.

- B. It shall be unlawful for any person to establish a shooting gallery within the city limits except as shall be allowed in this chapter.
- C. It shall be unlawful for any person to establish or maintain a commercial firing range except as shall be allowed by this chapter.
- D. A commercial firing range may be established only with a conditional use permit in a B-1, B-2 or M zone if all of the following criteria are met:
  - 1. The area in which guns are discharged, tested, or demonstrated is protected by barriers, which cannot be penetrated by the weapon being fired. Barriers must provide ample protection in the direction of the discharge as well as protective barriers on the sides; and,
  - 2. The chief of police, after an inspection of the proposed use, finds that ample protections are in place, and the operation will impose no public safety hazards and recommends that a conditional use permit be granted; and,
  - 3. Commercial firing ranges can only be permitted by businesses that are legally involved in the sales, repair or demonstration of firearms.
- E. No person shall operate a firing range in such a manner as to constitute a public or private nuisance. Nothing herein shall be construed in such a way as to limit the right of the city or any resident thereof to bring a civil action to abate a public or private nuisance.
- F. Any person convicted of violating any provision of this chapter may be fined an amount not to exceed \$1,000.00 and that sum may be levied in the case of a continuing violation, for each day a violation occurs.

(Ord. No. 2006-25, §§ 2—7)

## **CHAPTER 7.48 STORAGE AND TRANSPORT OF COMBUSTIBLE LIQUIDS**

### **7.48.01. Unlawful conduct.**

From and after the date of passage of the ordinance from which this chapter is derived, it shall be unlawful for any person to store or transport flammable and combustible liquids in any manner inconsistent with the provisions of this chapter.

(Ord. No. 80-7, § 1)

### **7.48.02. Definitions.**

The following terms are hereby defined for the purpose of this chapter as follows:

- A. *Flammable (class I) liquids.* Liquids with a closed cup flash point below 100° F (37.8° C).
- B. *Class IA liquids.* Flammable liquids with a close cup flash point below 73° F (22.8° C) and a boiling point below 100° F (37.8° C).
- C. *Class IB liquids.* Flammable liquids with a closed cup flash point below 73° F (22.8° C) and a boiling point above 100° F (37.8° C).
- D. *Class IC liquids.* Flammable liquids with a closed cup flash point of 73° F (22.8° C) or above but not more than 100° F (37.8° C) and any boiling point.
- E. *Combustible classes II and III liquids.* Liquids with a closed cup flash point of more than 100° F (37.8° C).

- F. *Class II liquids.* A combustible liquid with a closed cup flash point of 100° F (37.8° C) or above but less than 140° F (60° C).
- G. *Class IIIA liquids.* A combustible liquid with a closed cup flash point of 140° F (60° C) or above but below 200° F (93.3° C).
- H. *Class IIIB liquids.* A combustible liquid with a closed cup flash point of 200° F (93.3° C) or above.
- I. *Person.* Any individual, corporation or other legal entity.

(Ord. No. 80-7, § 2)

#### **7.48.03. Storage of flammable and combustible liquids.**

- A. Class IA liquids shall not be stored within the corporate limits of the city, provided, however, that one container of liquefied petroleum (LP) of no more than 250 gallons (by water capacity) maximum storage may be stored on a single premises pursuant to provisions of the state fire code. This provision shall be applicable to engine fuel systems; provided, however, that an engine fuel system fuel container shall be limited to a maximum storage of 100 gallons by water capacity for each motor vehicle upon which it is installed.
- B. Class IB and IC liquids shall not be stored above ground except in approved containers of ten gallon capacity or less. Provided, however, that this provision shall not apply to an engine fuel system container holding fuel for the propulsion of an engine.
- C. Class II liquids shall not be stored above ground except in approved containers of 100 gallon by water capacity or less. Provided, however, that this provision shall not apply to an engine fuel system container holding fuel for the propulsion of an engine.
- D. Class III liquids shall be stored in the manner required by the National Fire Code adopted by separate ordinance.
- E. The foregoing standards are in addition to standards set out in the said National Fire Code and such state and federal laws governing the handling of such material.
- F. The city may exempt the maximum storage limitation, if reviewed and approved by the city fire department and approved by the city council for specified usages that require greater volumes of storage. Such exemption is only available outside residential and commercial zoning districts. All storage of flammable and combustible liquids shall be in compliance with the provisions of the Arkansas Fire Code, NFPA 30, and NFPA 58, as applicable.

(Ord. No. 84-3, § 2; Ord. No. 2006-22, § 2; Ord. No. 2012-16, § 2)

#### **7.48.04. Transportation of flammable and combustible liquids.**

It shall be unlawful for any vehicle used for the transportation of class IA, IB, IC, or class II liquids to be within the city limits except for the purpose of traveling through or for such reasonable time as may be required for servicing containers. It shall be unlawful for any person to park such vehicle or leave such vehicle unattended within the city limits except for emergency.

(Ord. No. 80-7, § 4)

### **CHAPTER 7.52 LOITERING**

#### **7.52.01. Illegal.**

It shall be unlawful for any person to loiter upon or frequent the sidewalks, streets, highways, alleys or other public places within the city.

### **7.52.02. Definitions.**

- A. A person commits the offense of loitering if he;
1. Lingers, remains or prowls in a public place or the premises of another without apparent reason and under circumstances that warrant alarm or concern for the safety of persons or property in the vicinity; and upon inquiry by a law enforcement officer, refuse to identify themselves and give a reasonably credible account of their presence and purpose; or
  2. Lingers, remains or prowls in or near a school building, not having any reason or relationship involving custody of or responsibility for a student, and not having written permission from anyone authorized to grant the same; or
  3. Lingers or remains in a public place for the purpose of gambling unlawfully; or
  4. Lingers or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual activity; or
  5. Lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance; or
  6. Lingers or remains on or about the premises of another for the purpose of spying upon or invading the privacy of another.
- B. Among the circumstances that may be considered in determining whether a person is loitering are that the person:
1. Takes flight upon the appearance of a law enforcement officer; or
  2. Refuses to identify himself; or
  3. Manifestly endeavors to conceal himself or any object.
- C. Unless flight by the actor or other circumstances make it impracticable, a law enforcement officer shall, prior to an arrest for an offense under subsection (A)(1) of this section, afford the actor an opportunity to dispel any alarm that would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.
- D. It shall be a defense to a prosecution under subsection (A)(1) that the law enforcement officer did not afford the defendant an opportunity to identify himself and explain his presence and conduct, or if it appears at trial that an explanation given by the defendant to the officer was true, and, if believed by the officer at that time, would have dispelled the alarm.

(Ord. No. 2016-17, § 2)

State law reference(s)—See A.C.A. 41-2914.

### **7.52.03. Penalty.**

As set out in Ark. Stat. 41-2914, loitering is a class C misdemeanor punishable by a maximum fine of \$100.00.

## **CHAPTER 7.56 WEAPONS**

### **7.56.01. Concealed weapon.**

Any person who shall wear or carry in any manner whatever, as a weapon, any dirk or sword or spear in a cane, brass or metal knuckles, razor, blackjack, billie or sap, ice pick, or any pistol of any kind whatever, shall be guilty of a misdemeanor. Provided, nothing in this section shall be so construed as to prohibit any person from carrying such pistols as are used in the army or navy of the United States when carried uncovered and in the hand, provided, officers whose duties require them to make arrests, or to keep and guard prisoners, together with

persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempt from the provisions of this section. Provided, further, nothing in this section shall be so construed as to prohibit any person from carrying any weapon when upon a journey or upon his premises.

#### **7.56.02. Discharging firearms.**

If any person shall be found guilty of discharging firearms of any kind within the city, unless in self-defense or in the execution of legal process, he shall be deemed guilty of a misdemeanor.

*Firearm* shall mean a weapon powered by the combustion of black powder or smokeless gunpowder.

(Ord. No. 2012-11, § 2)

#### **7.56.03. Throwing objects.**

Any person found throwing stones, sticks or missiles of any kind whatever at or upon any public or private building or at any person in the street, alley, place or unenclosed or enclosed ground within the city shall be deemed guilty of a misdemeanor.

#### **7.56.04. Other weapons.**

No person shall use or discharge any type of "BB," air rifle or pistol, bow, crossbow, sling-shot or any other such weapon which is gas, air or spring operated within this city:

- A. With the purpose of causing injury to persons or animals or damage to property, or
- B. In a manner which may negligently cause injury to persons or animals or damage to property.

No person shall use or discharge such weapons on any public property, street, alley, or park.

(Ord. No. 2012-11, § 3)

## **CHAPTER 7.60 PUBLIC SERVICE**

#### **7.60.01. Public service authorized.**

There is hereby established an authority of the administrator to allow the performance of public service as alternative to incarceration ordered by the judge of the district court.

(Ord. No. 1992-9, § 1)

#### **7.60.02. Conditions of public service.**

Public service shall be authorized in all cases wherein:

- A. The defendant has been sentenced to a determinate jail term;
- B. The defendant elects, by executing an appropriate written statement, to perform public service in lieu of incarceration;
- C. The defendant pays the administrative fee hereby levied;
- D. The defendant complies with such rules as are promulgated by the administrator;
- E. The alternative is not prohibited by the terms of the sentence; and
- F. The defendant is accepted into the program by the administrator.

(Ord. No. 1992-9, § 2)

### **7.60.03. Administrative fee levied.**

There is hereby levied a fee in the amount of \$10.00 per day for the purpose of financing operational costs incurred in connection with the maintenance of the program hereby authorized. The fee shall be collected by the administrator on a daily basis and all funds collected under the authority of this chapter shall be deposited on the date received and turned over to the city treasurer at the end of each calendar month.

(Ord. No. 1992-9, § 3)

### **7.60.04. Administrator.**

The chief of police is hereby designated as administrator of the program and the funds generated hereby. The chief of police shall have sole discretion to determine the scope and extent of public service to be performed and shall have the authority to promulgate all rules necessary to effectuate the purposes and language of this chapter.

(Ord. No. 1992-9, § 4)

### **7.60.05. Public service defined.**

The term "public service" as used herein, shall be deemed to mean any labor performed on public or private property from which the public derives a direct or indirect benefit.

(Ord. No. 1992-9, § 5)

### **7.60.06. Suspension.**

The administrator may suspend public service at any time by any participant in his sole discretion and no credit shall be allowed as an offset to incarceration for less than eight hours' service in a 24-hour period.

(Ord. No. 1992-9, § 6)

### **7.60.07. Credit for public service.**

For each eight hours of public service time, a participant shall be allowed 24 hours credit to offset jail time.

(Ord. No. 1992-9, § 7)

## **CHAPTER 7.64 ALARM SYSTEMS**

### **7.64.01. Definitions.**

The following words, terms, and phrases, as used in this chapter, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise.

*Alarm system* means any burglar, fire, and/or holdup alarm system referred to in this chapter.

*Burglar alarm system* means an alarm signaling an entry or attempted entry into the area protected by the system.

*Burglar, fire, and holdup alarm business* means any business operated by a person for a profit which engages in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, serving or responding to a burglar, fire, or holdup alarm system, or which causes any of these activities to take place.

*Central station* means any premises, usually maintained by an alarm company, equipped to receive and displace signals from intruder alarm systems.

*Communicator panel* means the device that receives alarm signals from subscribers whose lines terminate at the police/fire dispatch point.

*Direct alarm* means any police/fire alarm device running directly from a specific location to the police dispatch point, connected by leased telephone lines.

*Fire alarm system* means an alarm system signaling a fire on the premises protected by the system.

*Holdup alarm system* means an alarm system signaling a robbery or attempted robbery.

*Indirect alarm* means any police/fire alarm device running directly from a specific location to the police/fire dispatch point through an alarm company's receiving location to the police/fire dispatch unit. The alarm may be connected to the police/fire dispatch point leased telephone lines or called in by the alarm company's receiving location personnel.

*Interconnect* means to connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

*Local alarm (audible type)* means these alarms sound audibly on the premises whether or not connected as a "direct" or "central station" alarm.

*Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

*Subscriber* means a person who contracts for or receives service or maintenance with respect to any alarm system from an alarm business.

(Ord. No. 05-17, § 1)

#### **7.64.02. Responsibility to answer alarms.**

- A. *Generally.* When an alarm has been activated at a business or private residence and the police department or fire department respond, the owner or his representative shall be present at such location after being requested to do so by a representative of the city police department or the city fire department. Response shall be as soon as possible, but should not exceed 20 minutes from the time of request.
- B. *Audible alarms.* Every local alarm shall be constructed, equipped, and installed and in such a fashion that the alarms shall be incapable of sounding for more than 30 minutes following a single activation. The sounding of such audible alarm for a continuous period of more than 30 minutes shall constitute a public nuisance.

(Ord. No. 05-17, § 2)

#### **7.64.03. Inspection of alarm devices.**

- A. The chief of police or the fire chief, or a person designated by the police chief or fire chief shall have the authority to enter the premises of any business in the city which has a direct alarm system for the purposes of checking the alarm system.
- B. If any inspection reveals any problems with an alarm system, the owner or lessee shall have a period of 30 days after receiving written notice to make required corrections or repairs. If the corrections or repairs are not made in the specified amount of time, the alarm will be disconnected.
- C. There will be no testing or demonstrating of a direct alarm system without first obtaining permission from the police or fire departments.

(Ord. No. 05-17, § 3)

#### **7.64.04. Transmission of excessive false alarms.**

- A. Except due to factors beyond the control of the subscriber, it shall be unlawful for any person to transmit more than five false burglar or holdup alarms within any calendar year from any single alarm system.
- B. Except due to factors beyond the control of the subscriber, it shall be unlawful for any person to transmit more than two false fire alarms within any calendar year from any single alarm system.
- C. False alarms shall not include alarms activated by the following:
  - 1. Attempted or actual criminal activity or forcible unauthorized entry
  - 2. Structural damage to the protected premises due to earthquake, high winds, lightening or flooding caused by the overflow of natural drainage;
  - 3. Telephone line malfunctions; or
  - 4. Electrical service interruption.
- D. For the purpose of this section, factors within the "control of the subscriber" shall be defined as follows:
  - 1. Any act or omission by a subscriber or his employee;
  - 2. Faulty equipment;
  - 3. Equipment not properly maintained or serviced.

(Ord. No. 05-17, § 4)

#### **7.64.05. Penalties.**

- A. *False police alarm response charge.* When the city police department responds to false burglar or holdup alarms received from the same premises more than five times in a calendar year (January through December) the alarm user or subscriber shall pay the city the following amount within 30 days after receiving billing notification.

Sixth to eighth response, each: \$50.00.

After eighth response, each: \$100.00.

If payment is not received within the 30-day period, as provided above, the alarm user or subscriber shall be found in violation of this chapter and upon conviction shall be fined in the sum of \$100.00 in addition to the regular billing amount.

- B. *False fire alarm response charges.* When the city fire department responds to false fire alarms received from the same premises more than two times in a calendar year (January through December) the alarm user or subscriber shall pay the city the following amount within 30 days after receiving billing notification.

Sixth to eighth response, each: \$50.00.

After eighth response, each: \$100.00.

If payment is not received within the 30-day period, as provided above, the alarm user or subscriber shall be found in violation of this chapter and upon conviction shall be fined in the sum of \$100.00 in addition to the regular billing amount.

- C. *Informal hearing.* Each alarm user shall be entitled to an informal hearing with the chief of police, or his designate for each false police alarm in excess of five. Each alarm user shall be entitled to an informal hearing with the fire chief or his designate for each false fire alarm in excess of two. At the informal hearing, the subscriber may offer evidence that the alarm activation for which he is charged was not under his control as stated in sections 7.68.01—7.68.04. The hearing must be requested, in writing, by certified or registered mail, directed to the chief of police of the police department or the chief of the fire department within seven

days after the mailing of the statement of charges for the false alarm(s). Failure to timely request a hearing shall constitute an irrevocable waiver of such hearing.

(Ord. No. 05-17, § 5)

#### **7.64.06. Municipal liability.**

The city and its officers, agents, employees or assignees shall not be liable for any defects in the equipment or operation of the alarm system or use of signaling systems. Nothing contained herein shall be construed as a warranty by the city that any system will work or that any equipment or service will be without defect. The city shall not be liable for any damages, consequential or otherwise, for any claim or dispute arising out of or in connection with a alarm or signaling system.

(Ord. No. 05-17, § 6.)

## **CHAPTER 7.68 TOBACCO PRODUCTS**

#### **7.68.01. Prohibited.**

From and after the effective date hereof, use of tobacco products is prohibited in any building, office, vehicle, park, acreage, or other are or piece of property owned in fee or leased with the right of continuous possession by the city, including, but not limited to all offices, facilities, courtrooms, shops, parks, places of public meeting, and any and all other areas owned or leased by the city government, whether enclosed or not.

(Ord. No. 2004-2, § 1)

#### **7.68.02. Definition.**

A tobacco product is defined as any cigarette, cigarillo, cigar, pipe tobacco, smokeless tobacco, snuff, smokeless tobacco pouch, or any other product made from or derived from tobacco or any tobacco derivative.

(Ord. No. 2004-2, § 2)

#### **7.68.03. Exceptions.**

Nothing in this section shall preclude the use of tobacco products by persons on privately owned property or in areas on public property designated as smoking areas by the City Council.

(Ord. No. 2004-2, § 3)

#### **7.68.04. Enforcement.**

The city police department shall have the power to enforce this section pursuant to their normal police power.

(Ord. No. 2004-2, § 4.)

#### **7.68.05. Penalties.**

Any person found guilty of a violation of this chapter shall be punished by a fine of not less than \$10.00 nor more than \$200.00 for each such offense.

(Ord. No. 2004-2, § 5)

## CHAPTER 7.72 PROHIBITED SUBSTANCES

### 7.72.01. Definitions.

*Person* means a person, any form of corporation, partnership, wholesaler or retailer.

*Illegal smoking product* includes any substance, whether called tobacco, herbs, incense, spice or any blend thereof, which includes any one or more of the following chemicals:

- A. Salvia divinorum or salvinorum A: All parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts.
- B. (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo(c)chromen-1-o1 ....  
Some trade or other names: HU-210
- C. 1-Pentyl-3-(1-naphthoyl) indole ....  
Some trade or other names: JWH-018/spice
- D. 1-Butyl-3-(1-naphthoyl) indole ....  
Some trade or other names: JWH-073
- E. N-BENZYLPIPERAZINE ....  
Some trade or other names: BZP
- F. 1-(3[trifluoromethylphenyl]) piperazine.  
Some trade or other names: TFMPP
- G. Or any similar substance.  
Which products are sometimes known as "K2" or "Spice."

(Ord. No. 2010-19, § 1)

### 7.72.02. Selling.

It is hereby declared to be unlawful for any person to knowingly possess, give, barter, sell, attempt to purchase or possess with the intent to sell any illegal smoking product within the city limits.

(Ord. No. 2010-19, § 2)

### 7.72.03. Exception.

It is not an offense under section 7.72.02 of this chapter if the person was acting at the direction of an authorized agent of the city to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

(Ord. No. 2010-19, § 3)

### 7.72.04. Unlawful.

It is unlawful for any person to knowingly breathe, inhale or drink any compound, liquid or chemical listed within this chapter, or a similar substance for the purpose of inducing a condition of intoxication, stupefaction,

giddiness, paralysis, irrational behavior, or in any manner, changing, distorting or disturbing the auditory, visual or mental process.

(Ord. No. 2010-19, § 4)

#### **7.72.05. Medical purposes.**

This chapter does not apply to any person who commits any act described in this chapter pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This chapter likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(Ord. No. 2010-19, § 5)

#### **7.72.06. Fine.**

Any person found to be in violation of this chapter will be guilty of a misdemeanor and subject to a fine of not less than \$100.00 and not to exceed \$500.00 for a first offense or up to double that sum for each repetition of such offense. In the event the violation would also be punishable by state law, a term of imprisonment consistent with the comparable state legislation may be imposed by the court.

(Ord. No. 2010-19, § 6)

#### **7.72.07. Superseded.**

If the state legislature adopts a statute enacting criminal penalties for the possession, sale or delivery of any illegal smoking product, as defined in this chapter, then upon the effective date of such statute, this chapter shall be superseded said statute. However, any violation of this chapter occurring prior to the effective date of such a state statute may be prosecuted after the effective date of such a state statute.

(Ord. No. 2010-19, § 7)

# TITLE 8

## VEHICLES AND TRAFFIC

### CHAPTER 8.04 ADOPTION OF STATE LAWS

#### **8.04.01. Adoption of state laws.**

The "Uniform Act Regulating Traffic on Highways of Arkansas" as contained in Ark. Stat. Title 76 or A.C.A. Title 27, Chapter 51, three copies of which are on file in the office of the city clerk, are hereby adopted as traffic rules and regulations within and for the City of Prairie Grove. Any person convicted of a violation of said statutes shall be deemed guilty of the violation of the ordinances of the city and shall be fined or imprisoned or both in the manner set out under the state statutes.

(Concept from Ord. No. 1975-2)

#### **8.04.02. Adoption by incorporation by reference.**

- A. The state motor vehicle code, otherwise known and annotated as Ark. Stat. Title 76 or A.C.A. Title 27, Chapter 51, is hereby adopted in full by incorporation by reference of all the terms and provisions thereof as fully as if each such term and provisions had been set forth word-for-word herein.
- B. The council hereby further expressly declares that all subsequent amendments to the state motor vehicle code are hereby adopted by incorporation by reference from the date of their subsequent enactment by the General Assembly.

(Ord. No. 79-4)

### CHAPTER 8.08 TRUCK ROUTES

#### **8.08.01. Truck routes—Designated.**

Truck routes for all motor vehicles having a load capacity of two tons or more is hereby established and designated as follows:

- U.S. Highway 62
- U.S. Highway 62-B
- Bush Street West of Viney Grove Road
- Parks St. east of Highway 62
- Mock Street south of Highway 62
- Butler Rd. east of Highway 62
- Bill W. Ramsey Industrial Park Road
- Viney Grove Road
- Baggett Street south of Highway 62-B
- Sam Escue Drive

(Ord. No. 2014-24, § 2)

### **8.08.02. Exception.**

Provided, however, that nothing contained herein shall prohibit the use of any street by any such motor vehicle for the purpose of completing a delivery or obtaining a load at an address on a non-designated street.

(Ord. No. 1988-16, § 3)

### **8.08.03. Penalty clause.**

Any person found guilty of violating this chapter may be fined an amount not to exceed \$250.00 for each violation.

(Ord. No. 1988-16, § 4)

## **CHAPTER 8.12 NON-OPERATING VEHICLES**

### **8.12.01. Definitions.**

*Enclosed* means contained within a building or structure consisting of a roof and four walls.

*Hobby car* means a car or truck that a resident works on or tinkers with as a hobby.

*Inoperable* means a vehicle which is currently incapable of its intended use. The following examples are meant to be illustrative and not limiting or exclusive:

- A. The engine or motor is inoperative;
- B. Any one or more of the wheels are removed from the vehicle;
- C. The vehicle has flats on two or more tires;
- D. Major operating components are missing or in such inoperable condition as to make the vehicle inoperable;
- E. The vehicle does not have a current registration, if required.

*Motor vehicle* means a vehicle which uses motive power derived from a motor or engine.

*Vehicle* means a car, automobile, truck, bus, self-powered recreational vehicle, tractor truck, or other vehicle, with four or more tires, licensed to travel upon the roads of the state, or subject to licensing for travel or intended as a carrier for goods and persons from point to point. Vehicle does not include motorcycles, boats, trailers and other towable implements.

(Ord. No. 2011-16, § 2)

### **8.12.02. Inoperable vehicles prohibited.**

It shall be unlawful for any person to keep, maintain or allow an inoperable vehicle upon their real property within the city limits.

(Ord. No. 2011-16, § 2)

### **8.12.03. Exceptions.**

The provisions of this shall not apply to the following:

- A. Vehicles located at vehicle sales businesses, vehicle repair businesses, junkyards or salvage yards; operating in appropriate zoning districts, or under conditional use permits; and, holding valid city business permits.

- B. Enclosed vehicles.
- C. Temporarily inoperable vehicles. For purposes of this section, temporarily inoperable vehicles means vehicles that are inoperable for less than 30 continuous days, or no more than 45 days during any calendar year. No more than one temporarily inoperable vehicle is allowed at any one time.
- D. One unenclosed hobby car is allowed per residence in residential zones by permit only. Fees for the permits are set at \$25.00 for a one-year permit. Permits run from the date issued.

(Ord. No. 2013-7, § 2)

#### **8.12.04. Penalties.**

Violations of this chapter are hereby declared to be an unclassified misdemeanor punishable by a fine of not less than \$25.00 nor more than \$100.00. Each day of violation shall be considered a separate offense.

(Ord. No. 2011-16, § 2)

### **CHAPTER 8.16 STOPPING AT SCHOOL CROSS-WALKS**

#### **8.16.01. Drivers to stop.**

The drivers of all motor vehicles shall stop at least six feet from all cross-walks on city streets manned or supervised by school safety patrol children upon signal to stop by such safety patrolman.

#### **8.16.02. Stop sign displayed.**

The safety patrolman shall display a signal lettered with the word "STOP" when it is desired that traffic halt movement.

#### **8.16.03. Penalty for violation.**

The driver of any vehicle who violates the provisions of this chapter shall be guilty of a misdemeanor and fined not less than \$10.00 nor more than \$500.00 or sentenced from one to 30 days in jail.

### **CHAPTER 8.20 SPEED LIMITS**

#### **8.20.01. Speed limit.**

It shall be unlawful for any person, firm, corporation, association, automobile, truck, tractor, motorcycle, or other vehicle upon any street, alley, school ground or other public property within the city limits, other than such portions of said streets as are now or may hereafter be used and designated as state or federal highways, at a speed higher than is posted upon said stretch of road. Streets not designated otherwise shall carry a maximum allowable speed of 30 mph.

(Ord. No. or-11, § 1)

#### **8.20.02. Penalty.**

Any person, firm, corporation, association, or entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$5.00, nor more than \$100.00 for each offense.

(Ord. No. 163-67, § 2)

## **CHAPTER 8.24 PARKING**

### **8.24.01. Permanent parking prohibited.**

- A. No person shall be permitted to park a motor vehicle in the same parking space for more than 48 hours. After the expiration of 48 hours of continuous parking in one parking space, the person in control of the vehicle must remove it from that space for a minimum of 12 hours.
- B. It shall be unlawful for any person to park any motor vehicle within a designated fire lane.

(Ord. No. 2012-20, § 2)

### **8.24.02. Authority to restrict parking vested.**

The city council hereby designates the chief of police and the public works director as the joint authority to determine what areas of public streets and rights-of-way should be subjected to restrictions on parking. In making such decisions, primary consideration shall be given to assuring public safety for motor vehicle and pedestrian traffic. In the event of a disagreement between the chief of police and the public works, director, the mayor shall make the decision.

(Ord. No. 2005-1, § 2)

### **8.24.03. Parking of recreational and other vehicles.**

No person shall park a recreational vehicle, boat, trailer or equipment manufactured to be towed behind a motor vehicle on a public street or right-of-way longer than 48 hours.

(Ord. No. 2005-1, § 3)

### **8.24.04. Penalties.**

Any person, firm or corporation found guilty of violating this chapter shall be guilty of a violation and shall be fined not less than \$10.00 nor more than \$100.00. Each day of violation shall be considered a separate offense.

(Ord. No. 2011-16, § 3)

### **8.24.05. Criteria to prevent congestion in streets.**

This article is designed to prevent or alleviate the congestion of the public streets and to promote the safety and welfare of the public. This article establishes herein minimum requirements for the off-street parking, loading and unloading of motor vehicles appropriate to each land use and its intensity in relation to other land uses.

(Ord. No. 2005-14, § 1)

### **8.24.06. Responsibility of owners.**

The requirement to provide and maintain the required off-street parking space and loading areas shall be the responsibility of the operator and owner of the use and the operator and owner of the land on which off-street parking and loading areas is required.

(Ord. No. 2005-14, § 2)

### **8.24.07. Required off-street parking.**

In all districts, except CBD, in connection with every industrial, business, institutional, recreational, residential, or other use, there shall be provided at the time any building or structure is erected, enlarged or

increased in capacity, or any open use is established or enlarged, off-street parking spaces conforming to the requirement set forth herein:

- A. *Size of parking spaces required.* An off-street parking space shall consist of a nine feet by 19 feet space located off the street right-of-way, adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for all non-residential use, and for multi-family residential uses with five or more required parking spaces, shall be so designed, maintained and regulated that no maneuvering incidental to parking or removed shall be on any public street or street right-of-way, walk or alley, and so that any automobile may be parked and removed without moving another. Spaces for compact parking may be permitted for up to 20 percent of total spaces in a parking lot which contains at least ten parking spaces, which shall be clearly marked either on the pavement or by separate marker. The width and depth of each compact car space shall be eight feet wide and 16 feet deep.
- B. *Number of off-street parking spaces required.* The number of off-street parking spaces required for each use is set forth in section 8.24.08 hereof. Separate off-street parking space shall be provided for each use located on a lot but may be combined and used jointly provided the sum total of parking space requirements for all uses are provided.
- C. *Location of off-street parking.*
  - 1. All parking spaces provided pursuant to this article shall be on the same lot with the building or within 300 feet thereof. The distance to any parking area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking area or facility is to serve. Off-site parking shall not exceed 25 percent of the total number of spaces required by this article. The board of adjustment may authorize variance from this limitation for cause, which shall be an identifiable hardship. All off-site parking shall be noted on the official zoning map so as to assure maintenance of the requirement.
  - 2. When detached parking facilities or satellite parking lots are provided, they shall be located on property which is zoned to allow the principal use which this parking will serve or they must be approved by the Board of Adjustment. Parcels of land used as access to or from parking and/or loading areas for any land use shall conform to this requirement.
  - 3. Minimum distance and setbacks.
    - a. Except for permitted entrance and/or exit drives, every off-street parking areas shall be set back from the street right-of-way line a minimum of five feet.
    - b. No off-street parking area, exclusive of access drives, shall be located within three feet of any other property.
    - c. Minimum stall and access aisle width.

Parking angle	Type	Stall width	Stall to curb	Aisle width	Curb length per car	Center-to-center width of 2 row bin with access road between curb-to-curb/overlap c-c	
30°	Standard	9'	17.3'	11.0'	18.0'	45.6'	37.8'
	Compact	8'	14.9'	11.0'	16.0'	40.8'	33.9'
45°	Standard	9'	19.8'	13.0'	12.7'	52.6'	46.2'
	Compact	8'	17.0'	13.0'	11.3'	47.0'	41.3'
60°	Standard	9'	21.0'	18.0'	10.4'	60.0'	55.5'
	Compact	8'	17.9'	16.0'	9.2'	53.8'	49.8'

90°	Standard	9'	19.0'	24.0'	9.0'	62.0'	
	Compact	8'	16.0'	22.0'	8.0'	56.0'	

All other consideration shall conform to acceptable published architectural/engineering standards, as approved by the planning and community development division director.

- d. Handicapped parking.
- e. Where parking spaces are required for the physically disabled and/or handicapped in accordance with Chapter V, Section 508 (accessibility for the physically disabled and/or handicapped) of the standard building code, the number of spaces to be reserved for the handicapped shall be as follows:

Total Number of Parking Spaces	Required Number to be Reserved for Handicapped
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20, plus 1 for each 100 over 1,000

- f. Perpendicular parking spaces shall be at least 11 feet wide and shall have an adjacent stripped access aisle a minimum of five feet wide on one side of every such space. Two parking spaces may share the same access aisle. If a sidewalk is located adjacent to the accessible parking space, a minimum of three feet clear width, excluding vehicle overhangs is required as an accessible circulation route. The access aisle shall be connected to the curb by a curb cut or ramp at a maximum inclination ratio of 12:1. The access aisle cannot include a ramp or sloped area.
- g. Parallel parking spaces next to curbs shall be separated from the space in front or behind by a minimum five feet striped no parking area. This area shall be connected to the curb by a curb cut or ramp at a maximum inclination ratio of 12:1.
- h. Passenger loading zones shall provide an access aisle at least five feet wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb cut or ramp at a maximum inclination ratio of 12:1 shall be provided.
- i. Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways and entrances. Parking spaces should be located so that physically handicapped persons are not compelled to wheel or walk behind parked cars to ramps, walkways and elevators.

#### **8.24.08. Curb required along parking areas.**

In areas where a parking area is located ten feet or less from the street right-of-way a continuous raised curb of not less than six inches in height shall be constructed along the perimeter of the parking area and parallel with the abutting street right-of-way line, except for driveway openings. The perimeter of the parking area adjacent to the side or rear lot line shall be provided with wheel guards, bumper guards or curbs when the parking area is located ten feet or less from the lot line.

(Ord. No. 2005-14, § 4)

#### **8.24.09. Schedule of parking requirements.**

Minimum off-street parking space shall be provided as follows:

A. *Residential uses.*

1. Single-family and duplex dwelling: Three total parking spaces, per dwelling unit minimum, with at least two parking spaces per dwelling unit outside the primary structure or garage;
2. Multi-family dwelling: Three parking spaces per dwelling unit for the first 20 dwelling units, 2.5 spaces per dwelling unit for the next 50 dwelling units, and 2.0 spaces per dwelling unit for each dwelling unit over 70 dwelling units;
3. Manufactured/mobile home park: Three total parking spaces for each manufactured/mobile, with at least two outside the primary structure or garage;
4. Residential care facility: One parking space for each three residential units;
5. Nursing home: One parking space for each three residents;
6. Rooming house and boarding house: One parking space for each guest accommodation;
7. Fraternity, sorority and dormitory: One parking space for each two students residing on the premises, plus one parking space for each housemother or manager and each employee;
8. Hotel/motel: One parking space for each bedroom plus one parking space for each two employees, plus an additional one parking space for each 200 square feet of total floor area used for ballrooms, private meeting rooms, restaurants and other similar places of assembly.

B. *Office and institutional uses.*

1. Church, synagogue or other place of worship: One parking space for each 40 square feet in the main auditorium;
2. Community center, library, museum, civic club, lodge and similar use: One parking space for each 500 square feet of floor space;
3. Detention facility: One parking space for each 500 square feet of floor space;
4. School and institutions:
  - a. Nursery, kindergarten and day care centers: One parking space for each 300 square feet of floor space plus one space per employee plus on-site loading and unloading spaces to be required at a rate of one for each ten children accommodated.
  - b. Elementary school (grades 1—5): One space per classroom plus stacking space for drop-off and pickup shall be required on the site.
  - c. Middle school (grades 6—7): One space per classroom plus stacking space for drop-off and pickup shall be required on-site.
  - d. Secondary school (grades 8—12): Six spaces per classroom plus stacking space for buses and autos shall be required.

- e. Dance school/studio: One space per employee plus on-site loading and unloading space to be required at the rate of one for each five students, based on the maximum number of students at any one time.
- C. *Business and professional office, including medical, dental or veterinarian offices and similar use or establishment.* One parking space for each 300 square feet of the sum of the gross areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of party walls. For structures larger than 10,000 square feet, the above parking requirement shall be provided and the following percentage shall be taken of the remaining gross floor area:
- 10,000 to 20,000 square feet: 95 percent of parking requirement.
  - 20,001 to 30,000 square feet: 90 percent of parking requirement.
  - 30,001 to 40,000 square feet: 85 percent of parking requirement.
  - 40,001 and up: 80 percent of parking requirement.
- D. *Commercial uses with the exception of those located in a CBD zone.*
- 1. General business and retail sales, trade, merchandising, personal service (except as otherwise provided herein): One space for each 200 square feet of gross floor area up to 10,000 square feet, the above parking requirement shall be provided and the following percentage shall be taken of the remaining gross floor area:
    - 10,000 to 20,000 square feet: 95 percent of parking requirement.
    - 20,001 to 30,000 square feet: 90 percent of parking requirement.
    - 30,001 to 40,000 square feet: 85 percent of parking requirement.
    - 40,001 and up: 80 percent of parking requirement.
  - 2. Restaurants (and similar establishments serving food and beverages): One space for each 100 square feet of floor area.
  - 3. Bowling alley: Four parking spaces for each lane.
  - 4. Automotive services for passenger cars, light trucks (service stations, garages, and similar uses): Four parking spaces from each service bay or one space for each 300 square feet of gross building area whichever is greater.
  - 5. Automotive services for heavy trucks and equipment (service stations, garages, washing facilities and similar uses): One parking space for each 1,000 square feet of gross building area.
  - 6. Furniture stores: One parking space for each 1,000 square feet of floor area.
  - 7. Mortuary or funeral parlor: One parking space for each 40 square feet of chapel space.
  - 8. Recreational establishment, commercial, other than a theater, auditorium, stadium or arena: One parking space for each 200 square feet of floor area.
  - 9. Theater, auditorium, stadium or arena: One parking space for each four seats.
  - 10. Swimming pool: One parking space for each six person lawfully permitted in the pool at one time.
- E. *Industrial uses.*
- 1. Manufacturing and processing (and similar uses or establishment): One space for each 600 square feet of gross floor area.
  - 2. Warehouse and storage: One space for each 1,200 square feet of floor area.
- F. The number of parking spaces required for a use not listed herein shall be the same as for a similar use, which is listed. Appeals from the administrative judgment of the staff shall be filed with the planning

commission functioning as the zoning board of adjustment. The content of the filing shall consist of a cover letter addressed to the chairman and members of the board setting forth the request, and a copy of all pertinent graphic materials or correspondence. This filing shall occur within 30 calendar days of the action by the staff.

(Ord. No. 2005-14, § 5)

#### **8.24.10. Combined facilities.**

Off-street parking facilities required for two or more uses located on the same building site may be combined and used jointly provided, however, that the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the process set forth in this article. Those uses proposed for occupancy within an established development shall not occupy the site prior to the determination that the ordinance standard parking spaces available to the property for all uses meet the provisions of this section except that the number of spaces required for a previous legal use of any portion of the development shall be considered to be provided even if the spaces do not exist. Non-conforming parking rights may be carried forward to count as part of the parking requirement of a use replacing a previously established legal use.

(Ord. No. 2005-14, § 6)

#### **8.24.11. Off-street loading requirements.**

- A. In addition to all other requirements, on the same premises with every building, structure or part thereof hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods, display, department store, wholesale, market, hotel, laundry, dry cleaning or other uses involving the receipt of distribution by vehicles of materials or merchandise, there shall be provided and maintained adequate space for standing, loading and unloading in order to avoid undue interference with public use of the street or alley.
- B. Such space, unless otherwise adequately provided for, shall include a 12-foot by 30-foot loading space and 14-foot height clearance for every 20,000 square feet or fraction thereof in excess of 5,000 square feet of floor and land area used for the above-mentioned purposes.

(Ord. No. 2005-14, § 7.)

#### **8.24.12. Use of right-of-way.**

No portion of any public street right-of-way shall be considered as fulfilling or partially fulfilling the off-street parking requirements of this article. No parking "bays" shall be allowed, except for residential service on residential streets. All commercial off-street parking areas and all residential off-street parking lots abutting streets shall be arranged so that ingress and egress is by forward motion of the vehicle. For the purpose of parking in the rear yard, any public dedicated alley may be used in computing the maneuvering area.

(Ord. No. 2005-14, § 8)

#### **8.24.13. Surfacing.**

All entrance/exit drives, access drives and parking and loading area shall be graded and drained so as to dispose of all surface water accumulated thereon and shall be surfaced with a durable and dustless surface of at least an asphaltic concrete hot mix surface course. All storage areas shall be graded and drained and have a dustless surface of at least a single bitumous surface seal (chip seal).

(Ord. No. 2005-14, § 9.)

#### **8.24.14. Entrance/exit drives.**

All vehicular entrance and/or exit drives from all non-residential use, and for all residential use for five or more automobiles shall meet the following requirements (all distances are to the face of the curb):

- A. Minimum width of drive for two-way traffic: 24 feet.
- B. Minimum width of drive for one-way traffic: 15 feet.
- C. Minimum width for drive through service lane: Nine feet, with appropriate stacking lanes to avoid conflicts with internal traffic flow.
- D. Maximum width of drive: 40 feet.
- E. Minimum radius to the face of the curb: 25 feet.
- F. Minimum distance between drives on adjoining properties: 50 feet.
- G. Minimum distance between drives on single tract: 150 feet.
- H. Minimum distance of drive from the project curb line at the street intersection:
  - 1. Local street: 40 feet;
  - 2. Collector street: 60 feet;
  - 3. Arterial street: 120 feet.

(Ord. No. 2005-14, § 10)

#### **8.24.15. Lighting.**

Adequate lighting shall be provided if the parking facilities are used at night. This lighting shall be installed and maintained in a manner not to shine, reflect or cause glare into abutting premises or roads and highways.

(Ord. No. 2005-14, § 11)

#### **8.24.16. Reduction of parking area.**

No automobile off-street parking facility shall be reduced in area or encroached upon by buildings, vehicle storage or any other use where such reduction or encroachment will reduce the area below that required.

(Ord. No. 2005-14, § 12)

#### **8.24.17. Expansions.**

When a building or structure erected prior to June 16, 2005, shall have and will undergo any increase in number of gross floor area, dwelling units, or change in use unit designation the existing facility and all additional facilities shall be brought into compliance as a condition for obtaining a certificate of occupancy and business license.

(Ord. No. 2005-14, § 13)

## **CHAPTER 8.28 INATTENTIVE DRIVING**

#### **8.28.01. Prohibited conduct.**

It shall be unlawful for any person to drive in an inattentive manner on the streets of the city.

(Ord. No. 96-4, § 1)

### **8.28.02. Definition.**

The word "inattentive", for purposes of the enforcement of this chapter, shall mean a manner of motor vehicle operation which places in reasonably foreseeable danger of injury any person or property, including the person or property of the operator of a vehicle who is charged hereunder.

(Ord. No. 96-4, § 2)

### **8.28.03. Presumptions.**

The city council hereby specifically deems and ordains that the following acts by a driver of any motor vehicle shall establish a presumption of inattentiveness as defined in section 8.28.02 of this chapter:

- A. The spinning of loose rocks or gravel with motor vehicle tires on any street highway or alley;
- B. The squealing of motor vehicle tires during the course of acceleration or deceleration on any street, highway or alley; or
- C. The application of an imprint of tire tracks when starting or stopping a motor vehicle on any street, highway or alley.

(Ord. No. 96-4, § 3)

### **8.28.04. Penalty.**

Any person charged with violating the provisions of this chapter shall be brought before the judge of the municipal provisions of this chapter shall be brought before the judge of the district court of the city. Any person convicted of violating the provisions of this chapter shall be fined an amount of not less than \$25.00 nor more than \$100.00.

(Ord. No. 96-4, § 4)

## **CHAPTER 8.36 SKATEBOARDS, ROLLER SKATES AND UNLICENSED VEHICLES ON STREETS**

### **8.36.01. Certain traffic banned.**

No person shall traverse upon any public street or alley while on a skateboard, roller skates, push scooter, sled, toy vehicle, including motorized toy vehicle, or any other vehicle not approved for travel upon a public street or roadway.

(Ord. No. 2018-04, § 2)

### **8.36.02. Exception.**

Notwithstanding the language set forth in the preceding section, the vehicles described in section 8.36.01 may traverse upon a street or alley at any designated pedestrian crosswalk.

(Ord. No. 2006-23, § 2)

### **8.36.03. Penalty.**

Any person found guilty of violating this chapter shall be fined a sum of not less than \$10.00, nor more than \$100.00.

(Ord. No. 2006-23, § 3)

# TITLE 9

## STREETS AND SIDEWALKS

### CHAPTER 9.04 STREETS, ALLEYS, GUTTERS OR DITCHES

#### **9.04.01. Streets and alleys.**

It shall be the duty of every owner or occupant of any lot or premises in this city along which any street or alley runs to keep said street or alley from the middle line thereof to the side next to him free from all manner and kind of filth, garbage, trash, debris or decaying animal and vegetable substance of every kind.

#### **9.04.02. Personal property.**

From and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful for any person, firm or corporation to:

- A. Place a basketball goal, other recreational equipment, furniture or other personal property within a street or alley right-of-way; or
- B. Plant trees, shrubbery or other vegetation within a street or alley right-of-way, unless approved in advance by the public works director; or
- C. Place any fence, barrier, wall, sign, masonry, mail box or other structurally supported fixture within a street or alley right-of-way unless approved in advance by the public works director.

(Ord. No. 05-2, § 1)

#### **9.04.03. Definition.**

Public Works Director shall mean the city administrative employee whose supervisory authority encompasses streets and alleys, even if the term itself should fall into disuse with changes in the structure of city government.

(Ord. No. 05-2, § 2)

#### **9.04.04. Penalty.**

A violation of this chapter shall constitute a class C misdemeanor.

(Ord. No. 05-2, § 3)

#### **9.04.05. Gutters or ditches.**

No person shall allow any dirt, filth or obstruction of any kind to accumulate in the gutter, ditch or drainage tiles adjoining his premises, and all owners or occupants of property are required to keep the gutter or ditch adjoining their property clean, open and free from trash and weeds and all obstructions to aid the easy and rapid flow of water.

(Ord. No. 04-25, § 1)

## **CHAPTER 9.08 EXCAVATIONS AND ALTERATIONS**

### **9.08.01. Excavating permit.**

No person, firm or corporation shall cut into, or tunnel under, or in any manner disturb the surface of any street, alley or sidewalk in the city without first applying for and obtaining from the public works director or his designee a written permit stating the nature of the excavation, proposed method of repair, name and address of the person responsible for the excavation and repair, and exact location of where the work is to be performed.

(Ord. No. 04-24, § 1)

### **9.08.02. Application for permit/deposit.**

Any person, firm or corporation applying for said permit shall estimate in writing the number of square feet to be cut or tunneled. Before such permit is granted the applicant shall deposit with the city for the purpose of insuring that the street, parking lot, sidewalk or alleyway is properly restored the sum of \$20.00 per square foot for asphalt or concrete street, public driveways, or parking lot repairs, \$5.00 per square foot for gravel street, public driveways or alleyway repairs, \$7.00 per square foot for concrete sidewalk repairs. The permit holder may repair the excavation to the satisfaction of the city in order to receive the deposit back, or may forfeit the deposit to the city and the city make the necessary repairs.

(Ord. No. 04-24, § 1)

### **9.08.03. Excavations to be restored.**

All excavations made are to be restored to their original condition to the satisfaction of the mayor or his appointee before the deposit shall be returned.

State law reference(s)—Control of streets and other ways by city, A.C.A. 19-3801.

## **CHAPTER 9.12 BALL PLAYING**

### **9.12.01. Unlawful.**

It shall be unlawful for any person or persons to engage in the throwing or catching of base balls, or any other kind of ball whatever, or to engage in any game of baseball or any other game of ball known or unknown, on the streets or alleys of the city, or throwing rocks in any streets or alleys, or any other hard substances.

(Ord. No. 24, § 1)

### **9.12.02. Penalty.**

Any person or persons violating any of the provisions of this chapter shall, on conviction thereof, be fined in any sum not less than \$1.00 nor more than \$5.00.

(Ord. No. 24, § 2)

## CHAPTER 9.16 RESERVED<sup>2</sup>

### CHAPTER 9.20 REMOVAL OF STRUCTURE

#### 9.20.01. Removal of structure, notice required.

Every person firm, or corporation who owns a house or other structure located in any of the streets, avenues or alleys of the city be and they are hereby required to remove same, provided that a notice shall be served by the chief of police on such person, firm or corporation, said notice to be in writing, to be served 15 days before the removal is required and said notice to be substantially in the following form:

"You are hereby notified to remove the house (or other structure) which is located in \_\_\_\_\_ Street (Avenue or alley) within 15 days after date, or you will be punished according to law."

#### 9.20.02. Penalty.

Any person, firm or corporation who fails or refuses to remove such house or other structure within 15 days after the expiration of the time fixed in the notice shall be deemed guilty of a misdemeanor and shall be fined not less than \$5.00 nor more than \$10.00 for each day such owner permits the house or other structure to remain in the street, avenue or alley.

### CHAPTER 9.24 CULVERTS AND TILES

#### 9.24.01. Unlawful conduct.

From and after the date of passage hereof, it shall be unlawful for any person to install any tile or culvert in any ditch or watercourse, either continuous or occasional, unless the same shall be:

- A. Twelve inches in inside diameter or larger; or
- B. Whatever larger size is approved by the city building inspector.

(Ord. No. 82-7, § 1)

#### 9.24.02. Permit required.

No person shall install a tile or culvert anywhere within the corporate limits of the city without first obtaining a permit therefore from the city building inspector on application forms provided by the city. The city building inspector may issue such permit under such conditions as he deems necessary to protect the public health, safety and welfare of the people of Prairie Grove, taking into consideration topography, surface water volume, the size and number of other related drainage structures and upon payment of the inspection fee.

(Ord. No. 82-7, § 2)

#### 9.24.03. Inspection fee established.

There is hereby fixed an inspection fee of \$2.50 which shall be paid to the city before a permit may issue.

(Ord. No. 82-7, § 3)

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<sup>2</sup>Editor's note(s)—Ord. No. 2020-23, § 2, repealed Ch. 9.16, which pertained to bicycles.

#### **9.24.04. Duty of the city inspector.**

It shall be the duty of the city inspector to enforce all laws relative to the regulation of tiles and culverts, to issue permits for their installation, to collect inspection fees, inspect the site of any proposed permit and report all violations of this chapter.

(Ord. No. 82-7, § 4)

#### **9.24.05. Penalty.**

Any person who fails to comply with or violates any provision hereof may be fined not more than \$200.00 for each violation.

(Ord. No. 82-7, § 5)

#### **9.24.06. Definitions.**

The term "person" as used herein shall be deemed to mean a natural person, corporation or association of persons.

(Ord. No. 82-7, § 6)

## **CHAPTER 9.28 STREET NAMING AND NUMBERING**

#### **9.28.01. Purpose.**

This chapter establishes a system for assigning street names and address numbers which will assist the public and private sector in locating individual streets, buildings and places in an easy and logical manner and for the protection of public health and safety of all persons living, working or visiting in the city.

(Ord. No. 88-12, § 1)

#### **9.28.02. Street address map.**

The official street address map is a part of this chapter and shall contain the ordinance number and certifications which appear upon this document. The map shall identify all named streets, numbering centerlines and block numbering grids which specify address number ranges. A typical section of land shall be divided into ten blocks, or grids, north/south and east/west. Each grid interval shall be 528 feet except in non-standard grids identified on the map.

(Ord. No. 88-12, § 2)

#### **9.28.03. Centerlines.**

Buchanan Street and its extension to the city's east and west planning area boundaries shall be the centerline street for north and south address numbers. Mock Street and its extension to the city's north and south planning area boundaries shall be the centerline street for east and west address numbers.

(Ord. No. 88-12, § 3)

#### **9.28.04. Street names.**

For the purpose of this chapter, the word "street" shall mean all roadways, public and private, open for general public travel. Access drives to apartment and commercial complexes shall not be considered as streets and shall not be named as such.

Streets which are also state or federal highways will be identified by their local street name followed by their state or federal designation in parenthesis on the official street name and address reference map. For example: "Buchanan Street (U.S. 62)."

An official street name index shall be maintained which shall list every named street on the map.

(Ord. No. 88-12, § 4)

### **9.28.05. Address numbers.**

- A. Address numbers shall be even on the north and west sides of the street and odd on the east and south sides of the street. One hundred numbers shall be assigned to each identified grid block with the lowest number beginning at the point nearest the grid centerline. Address numbers shall be determined by the number grid in which the property is located.
- B. In new residential subdivisions, each lot shall be given a pre-assigned street number by the water department upon final plat approval by the city planning commission. Address numbers shall be assigned to large lots relative to their capacity to be divided into two or more lots for the minimum width allowed by the zoning district. Address numbers shall be assigned to lots in the appropriate odd or even numerical sequence relative to their location such as 201, 203, 205, etc.
- C. Address numbers for unplatted residential and all other non-residential buildings shall be determined by calculation. The distance from the center of the driveway to the last corner or grid shall be measured to get a location number. The location number is then added to the block number to get the address. If the block number is 1200 and the location number is 43, the address is 1243 or 1244 depending upon which side of the street the building is placed.

LOCATION NO. = (DISTANCE CORNER TO PROPERTY/TOTAL BLOCK LENGTH) x 100.

ADDRESS = BLOCK NO. + LOCATION NO.

In other words, the address is the percent of the total distance into the block plus the block number.

- D. When street intersections are within 120 feet of a grid line, the number series change shall be made at the intersection to be more logical to the public. When a long block faces two blocks divided by a street, the number series on the long block shall change at the intersecting street so that houses facing each other will have compatible addresses.
- E. Diagonal streets which run 45 degrees or less from a north/south line will be numbered by the north/south grid and those more than 45 degrees from the north/south line will be numbered by the east/west grid. Curving streets will be assigned numbers based upon the grid of their greatest length. For instance: if the beginning is more south than west of the end, then the north/south grid will be used.
- F. On loop streets and cul-de-sac streets, address numbering shall begin at the entrance nearest the grid centerline and increase or decrease as appropriate to its beginning direction and proceed to the opposite end as if the street were in a straight line. Block number changes will be made every 528 feet with odd and even numbers remaining on the same side of the street as they began.
- G. Apartment buildings on public streets shall be assigned individual addresses. Apartments clustered about a central parking area immediately facing a public street shall also be assigned separate street addresses.
- H. When apartments are arranged along a private street, a sign showing the apartment complex name with the public street address below it must be posted at the entrance. In these instances, each building is lettered A, B, C, etc., but a central postal facility for all apartments must be located so it is readily accessible to a mail carrier from the public street serving the complex.
- I. Each apartment must be identified at the exterior entrance by number or building letter and number for multiple buildings. The numbers shall be in sequence 1, 2, 3, etc. Apartments in lettered buildings shall have the building letter as part of each apartment number, such as B-210. When units are on multiple floors,,

ground floor numbers shall be in the 100 series, (101, 102, 103...), second floor in the 200 series (201, 202, 203...) etc. If a common hallway is used for several apartments, the external hallway entrance to each apartment shall contain a list of the apartments served. When addressing townhouses and other buildings containing units separately owned, each address shall be placed on the principal external entryway to the unit.

- J. The official address for each apartment on a public street shall be the building address followed by the apartment number, such as "329 Fernway Street, Apt. 8." Addresses for units in apartment buildings not on a public street shall include the public street address and the building number with the apartment designation. The official address for each apartment will be the public street address followed by the building letter, a dash and the apartment number, such as "329 Fernway Street, Apt. C-104."

(Ord. No. 88-12, § 5)

#### **9.28.06. Signs, numbers and system maintenance.**

- A. Public and private street signs shall be installed at the expense of the original developer and thereafter maintained by the city street department.
- B. Private street signs shall be required. They shall conform to the public street sign standards except shall have a blue background with white letters.
- C. Only street name signs which are authorized by the street department shall be installed within the corporate limits of the city. All street name signs, public or private, found not to conform with this chapter shall be removed by the street department. Non-conforming, damaged or deteriorated public street signs shall be replaced as soon as practical by the street department.
- D. Requests for private street signs on existing streets shall be submitted to the city business clerk. The city business clerk shall forward authorization to the street department immediately upon completion after which the street department shall have the sign prepared and installed as soon as possible.
- E. Address numbers shall be assigned by the city and shall be installed by the builder before final inspection and shall be the owner's responsibility thereafter.
- F. Replacement of address numbers is required within 15 days after written notice to the owner by the building inspector. New and replacement numbers must be placed so that they will be clearly visible from the street of primary access to the building.
- G. Address number shall be a minimum of three inches high with black block letters on a white background and shall be visible from the street. Other colors which have sufficient contrast to be read from the street under normal nighttime conditions may be approved by the building inspector. The numbers shall be placed as near as possible to the primary entrance of the building and preferably above the entrance doorway. The location, style, size and color of the required numbers shall be approved by the building inspector. Appeals concerning numbers shall be made to the city council.

(Ord. No. 88-12, § 6)

#### **9.28.07. Number assignment, review and approval.**

- A. Official records of address numbers shall be maintained by the city water department. If the building inspector's office is the first point of contact regarding new buildings, that office shall coordinate with the water department to obtain an official address assignment. The city council shall have the final authority to change any assignment upon an appeal to any affected party.
- B. All proposed street names and name changes shall be reviewed for continuity with this chapter by the street superintendent who shall recommend alternative names when a proposed name duplicates or is so similar to an existing name that confusion could hamper prompt delivery of emergency services. Appeals of street name assignment can be made to the planning commission. The city council shall have the final authority to

change any assignment upon an appeal by any affected party. On street name changes, the planning commission shall hold a public hearing and make a recommendation to the city council who shall have final authority.

(Ord. No. 88-12, § 7)

### **9.28.08. Amendments.**

On any proposed amendment to these regulations or to the street address map, the planning commission shall hold a public hearing, a notice of which shall be published in a local newspaper of general distribution at least 15 days prior to the date of the hearing. Following the public hearing, the city council may adopt the amendment or amendments as recommended by the planning commission or as determined by a majority vote of the city council.

(Ord. No. 88-12, § 8)

### **9.28.09. Penalty.**

Any person failing to comply with the provisions of this shall, upon conviction thereof, be fined not less than \$10.00 nor more than \$25.00 plus prosecution costs for each offense.

(Ord. No. 88-12, § 9)

### **9.28.10. Citizen initiated street renaming.**

Whenever a citizen desires to petition the city council to rename an existing street, the following requirements must first be met:

- A. A petition signed by 75 percent or more of the property owners along the street must be submitted requesting the name change;
- B. Once a petition meeting the above requirement is submitted, the city council shall schedule a public hearing on the renaming;
- C. At the city council meeting following the public hearing, the city council will consider renaming the street as requested;
- D. Input from the city police department, fire department and CEMS will be considered by the council;
- E. The petitioner(s) must agree to pay for the cost of re-signing the street.

(Ord. No. 2016-03, § 2)

## **CHAPTER 9.32 SIDEWALKS**

### **9.32.01. Keeping sidewalks clear.**

- A. It shall be the duty of every owner or occupant of any lot or premises that includes, adjoins, or boundaries public sidewalks to keep said sidewalk clear of filth, garbage, trash, debris or obstacles that impeded the use by pedestrians. Obstacles shall include but are not limited to, fences, bicycles, vehicles, toys, or any other items which could cause potential harm or impediment to pedestrians along said walkways. In addition, nothing shall be done by any person to damage, erode, crack, destroy, or make useless any public sidewalk in the city limits.
- B. Within the central business district zoning classification, all property owners adjacent to a public sidewalk shall keep a minimum width of 48 inches of sidewalk free of any obstruction. Outside of the central business district zoning classification, the entire width of public sidewalks must be kept free of any obstruction.

(Ord. No. 03-12, § 1; Ord. No. 2018-21, § 2)

### **9.32.02. Chemicals on sidewalks.**

The use of salt, brine, ammonium sulfate, magnesium chloride, calcium chloride or other ice melting chemicals, with the exception of chemicals that specifically state they are safe and will not harm concrete, are not to be used on all city sidewalks.

(Ord. No. 04-11, § 1)

### **9.32.03. Sidewalk use by pedestrians.**

Pedestrians shall always have the right-of-way regarding the use of sidewalks. Foot-powered equipment (e.g., bicycles, tricycles, scooters, wagons) and electric-powered equipment (e.g., e-bikes, electric scooters) are allowed to use sidewalks, but:

- A. Are limited to speeds not exceeding five miles per hour; and
- B. Shall yield to any pedestrians.

Use by anyone other than pedestrians is prohibited on sidewalks in the central business district.

(Ord. No. 2020-23, § 3)

### **9.32.04. Overtaking.**

Any time a non-pedestrian is overtaking a pedestrian, they shall give an audible signal to the pedestrian prior to passing them.

(Ord. No. 2020-23, § 3)

### **9.32.05. Crosswalks.**

Any person operating a foot- or electric-powered device within a pedestrian crosswalk must yield the right-of-way to motor vehicle traffic and pedestrians. To earn the protections of a pedestrian, an individual must dismount, walk the device and obey applicable traffic control devices.

(Ord. No. 2020-23, § 3)

### **9.32.06. Penalty.**

Any person violating the provisions of chapter 9.32 shall, upon conviction, be fined a sum of not less than \$25.00 and not more than \$100.00 for each offense.

(Ord. No. 2020-23, § 3)

# TITLE 10

## UTILITIES

### CHAPTER 10.04 WATER SYSTEM REGULATIONS<sup>3</sup>

#### 10.04.01. Definitions.

The following expressions when used herein will have the meaning stated below.

*Applicant* means any individual, firm, partnership, corporation or other agency owning land located within the area, applying for water service.

*Consumer* means any individual, firm, partnership, corporation or other agency receiving water from the city's facilities.

*Point of delivery* means the point of delivery shall be at the meter, unless otherwise specified in the water users' agreement.

*Service* means, when used in connection with the supplying of water, the availability for use by the consumers of water adequate to meet the consumer's requirements. Service shall be considered as available when the city maintains the water supply at normal pressure at the point of delivery, in readiness for the consumer's use, regardless of whether or not the consumer makes use of it.

*Water service* shall consist of facilities for supplying water to one residence or business establishment.

*Water users agreement* means the agreement or contract between the consumer and the city, pursuant to which water service is supplied and accepted.

#### 10.04.02. General rules.

- A. The supplying and taking of water will be in conformance with these rules and the applicable rate schedule provided by proper ordinance duly passed and recorded by the city. Provided, however, that such rate schedule is subject to change by action of the city council with the approval of the state director. Provided, further, that if at any time the city determines that the total amount derived from the collection of water charges is insufficient for the payment of operating costs, emergency repairs, or debt service, the city shall increase the minimum water rate for the first month thereafter in an amount sufficient to pay such operating costs, emergency repairs or debt service.
- B. Applicants for service shall make application to the city. If the application for service is approved, the applicant will sign a water user's agreement for an indefinite period and make the required connection fee.
- C. Before installing a service extension and providing water available for use, the city may require the applicant to pipe his home and be in readiness to accept service.
- D. Every customer shall provide or install a service valve near the meter. On all new construction or on all new tap installations, the customer shall provide a private isolation shut-off valve within three feet of the city's meter location.

*Backflow protection required.* The applicant will also be required to provide backflow protection on all new service installations as approved by the administrative authority.

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<sup>3</sup>Editor's note(s)—Chapter 10.04 adopted by Resolution passed March 17, 1969.

E. Applicants for connection to the city water system who are not connected to a public sewer and who do not have a public sewer available to them will install a private treatment system. Such applicants must submit evidence of approval by the state department of health to the water and sewer department of the city before municipal water service will be provided.

1. *Service is for sole use of the consumer.* A standard water service connection is for the sole use of the applicant or the consumer and does not permit the extension of pipes to transfer water from one property to another nor to share, resell or sub-meter water to any other consumer. If an emergency or specific situation should make such an arrangement advisable, it shall be done only on specific written permission of the city for the duration of the emergency.
2. *Agreements with governmental and public bodies.* The city may make specific water service contracts with the federal government, the state or agencies thereof, school districts and municipal corporations, differing from stipulations set out in the rate schedule and rules. Such contracts must receive approval by the state director of the farmers home administration before being placed in effect.
3. *Right of access.* Representatives of the city shall have the right at all reasonable hours to enter upon consumers' premises to read and test meters, inspect piping and to perform other duties for the proper maintenance and operation of service or to remove its meters and equipment upon discontinuance of service. Any type of hindrance preventing access to a meter box or any other appurtenance of the water utility is prohibited. This includes locked gates, vicious or unfriendly animals, parking vehicles on or above a meter, and covering up the meter box with dirt, vegetation or some other material. The utility will notify the consumer in writing that the meter or appurtenance cannot be accessed and provide a reasonable time frame of no more than three days that access will be required by the utility.

If the consumer fails to provide access as required or continues to block access in subsequent months or billing cycles, a fee of \$100.00 per month may be charged in addition to any other charges until the meter is made accessible. Any person who blocks access to a meter to prevent discontinuance for non-payment by parking a vehicle over a meter box, staking a vicious dog or animal by a meter box, or blocking access in any other manner, shall be guilty of a misdemeanor, and upon conviction shall be liable for fines of \$100.00 for each day or partial day that such obstruction is in place. In case of emergency, utility personnel are authorized to take whatever measures are necessary to access critical facilities, valves or meters to maintain public safety.

4. *Continuity of service.* The city will make all reasonable efforts to supply continuous, uninterrupted service. However, it shall have the right to interrupt service for the purpose of making repairs, connections, extensions, or for other necessary work. Efforts will be made to notify consumers who may be affected by such interruptions, but the city will not accept responsibility for losses which might occur due to such necessary interruptions.

The city does not accept responsibility for losses which might occur due to interruptions to service caused by storms, strikes, floods or other causes beyond its control.

(Ord. No. 1988-18, § 1; Ord. No. 1992-6, § 5; Ord. No. 2015-22, § 3; Ord. No. 2017-14, § 2)

### **10.04.03. Meters.**

Meters will be furnished, installed, owned, inspected, tested and kept in proper operating condition by the city, without cost to the consumer. A complete record of tests and histories of meters will be kept. Meter tests will be made according to methods of the American Waterworks Association by the city as often as deemed necessary.

- A. *Meter accuracy.* Service meters whose errors do not exceed two percent fast or slow shall be considered as being within the allowable limits of accuracy for billing purposes. The percentage of error will be considered as that arrived at by taking the average of the error at full load and that at ten percent load, unless a consumer's rate of usage is known to be practically constant in which case the error at such constant use will be used.

- B. *Meter location.* Meters shall be set in an accessible place on the outside of buildings except where otherwise directed by the city. All meters shall be set horizontally and never connected into a vertical pipe. Meters set outside of a building shall be placed in a meter box furnished and installed by the city.
- C. *Requested meter tests.* Meter tests requested by consumers will be performed without cost to the consumer if the meter is found to be in excess of two percent fast. Otherwise, the consumer for whom the requested test was made will be charged for cost of making the test.
- D. *Consumer's responsibility.* The consumer shall be responsible for any damage to the meter installed for his service, other than normal wear and tear.
- E. *Change of occupancy.* It shall be the consumer's responsibility to anticipate changes of occupancy and to notify the city of such changes, otherwise, the original holder shall be responsible for payment of service. Any balance for a customer on a meter deposit will be refunded.

#### **10.04.04. Main extensions.**

In extending a water main to serve an applicant, the city may at its discretion exercise one of the following options:

- A. If the cost of the extension is less than the average cost of the entire system to each user, and sufficient construction funds are available, the city may elect to make the extension upon the applicant's payment of the required connection fee and meter deposit.
- B. If the cost of the extension is greater than the average cost of the entire system to each user, but funds are available to the extent of such average cost, the city may elect to contribute to the extension in the amount of such average cost, and require the applicant to deposit in cash the additional cost in addition to the connection fee. If and as additional consumers are connected to the extension, and as funds become available, all or part of the original consumer's deposit may be returned to him. Any portion of the original deposit remaining after the expiration of a five-year period will become the property of the city. In no case will interest be paid on such deposits.
- C. In the event that the city does not have funds available to pay for construction in the amount of the average cost per member of the entire system, it may require as a condition of extending service, that the applicant deposit in addition to the charge of a connection fee, an amount which may equal the entire cost of the extension. In such an event, the city may as funds become available return to the consumer that portion of his deposit equal to the average cost of the system per member. No interest will be paid on such deposits.

#### **10.04.05. Services.**

The city will install and pay for all water service pipes from its mains to the meters on property abutting the travelway along which the main is installed. The service pipe shall not be less than three-fourths-inch in size. The city will also install and pay for the city cock, meter, and meter setting. The meter will be set in front of the premises to be served or at the closest point as designated by the city.

#### **10.04.06. Applicants having excessive requirements.**

In the event an applicant whose water requirements are found to exceed the city's ability to supply it from existing plant without adversely affecting service to other consumers to an unreasonable extent, the city will not be obligated to render such service, unless and until suitable self-liquidating financing is arranged to cover necessary investment in additional plant.

#### **10.04.07. Connection with private water system.**

There shall be no physical connection between any private water system and the water system of the city. Representatives of the city shall have the right at all reasonable hours to enter upon consumer's premises for the

purpose of inspection and enforcement of this provision. Violation of this provision shall constitute cause for disconnection of a consumer's service.

## CHAPTER 10.08 SEWER SYSTEM REGULATIONS

### 10.08.01. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

*Building* means residential and commercial structures which enclose a source of wastewater.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

*Easement* means an acquired legal right for the specific use of land owned by others.

*Floatable oil* means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly treated and the wastewater does not interfere with the collection system.

*Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

*Industrial wastes* means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

*Natural outlet* means any outlet, including storm sewers and combined sewer overflows, that discharges into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*May* is permissive. (See "Shall.")

*Person* means any individual, firm, company, association, society, corporation or group.

*pH* means the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen-ion concentration of  $10^{-7}$ .

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

*Public sewer* means a common sewer controlled by a governmental agency or public utility.

*Sanitary sewer* means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

*Sewage* means the spent water of a community. The preferred term is "wastewater." (See "Wastewater.")

*Sewer* means a pipe or conduit that carries wastewater.

*Shall* is mandatory. (See "May.")

*Slug* means any discharge of waste or wastewater which in concentration of any given constituent or in quality of flow exceeds for 15 minutes more than five times the average 24-hour concentration or flow during normal operation.

*Storm drain* (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

*Superintendent* means the superintendent of wastewater facilities of the city or his authorized deputy, agent or representative.

*Suspended solids* means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

*Unpolluted water* means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

*Wastewater* means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.

*Wastewater facilities* means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

*Wastewater treatment works* means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

*Watercourse* means a natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. No. 1989-11, Art. I)

#### **10.08.02. Use of public sewers required.**

- A. It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the city or in any area under the jurisdiction of said city any human or animal excrement, garbage or objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of said city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. The issuance of a valid National Pollutant Discharge Elimination System permit covering such discharges into a natural outlet shall be considered as meeting all requirements of this section.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool or other facility intended or used for the disposal of wastewater.
- D. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein and to connect such facilities either through a septic tank or directly to the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so provided that said public sewer is within 300 feet of the building.

(Ord. No. 1989-11, Art. II)

### **10.08.03. Private wastewater disposal.**

- A. Where a public sanitary sewer is not available under the provisions of section 10.08.02(D), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
- B. Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and construction permits approved by the state department of health.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.
- D. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations approved by the state department of health. No septic tank shall be permitted to discharge to any natural outlet.
- E. At such time as a public sewer becomes available to a property served by a private wastewater disposal system as provided in section 10.08.02(D), a direct connection from the building or the septic tank shall be made to the public sewer within 90 days in compliance with this chapter.
- F. The requirements of this section shall not apply to owners discharging such sewage under the provisions of a valid Natural Pollution Discharge Elimination System permit.
- G. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the city.
- H. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the county sanitarian.

(Ord. No. 1989-11, Art. III)

### **10.08.04. Building sewers and connections.**

- A. No authorized person(s) shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.
- B. There shall be two classes of building sewer permits: (1) for residential and commercial service; and (2) for service to establishments producing industrial wastes. In either case, the owner(s) or his agent shall make application on a special form furnished by the city. Their permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of \$13.00 for residential or commercial permits, and \$13.00 for industrial permits shall be paid to the city at the time the application is filed.
- C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as a one building sewer.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination, and tested by the superintendent, to meet all requirements of this chapter.

- F. For all collectors, interceptors, building sewers and septic tanks, the size, slope, alignments, material of construction, and the methods used for excavating, placing, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city and the state. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person(s) shall make connections of roof downspouts, foundation drains, are drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- I. All connection into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and shall be verified by proper testing.
- J. The applicant for the building sewer permit shall notify the superintendent when the building sewer (and septic tank) is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and warning lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
- L. Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense:
  - 1. Install an accessible and safely located control manhole;
  - 2. Install meters and other appurtenances to facilitate observation, sampling, and measurement of the waste; and
  - 3. Maintain the equipment and facilities.

Such control manhole, meters and other monitoring appurtenances shall be lockable and accessible by the city.

(Ord. No. 1989-11, Art. IV)

#### **10.08.05. Use of the public sewers.**

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city.
- C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
  - 2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.

3. Any waters or wastes having a pH lower than 6.0 or in excess of 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works.
  4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, egg shells, etc., either whole or ground by garbage grinders.
  5. No substance will be added which would preclude the selection of the most cost effective alternative for wastewater treatment and sludge disposal.
- D. The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance. The superintendent may set limitations more stringent than the limitations established in the regulations below if in his opinion such limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers the wastewater treatment employed, capacity of the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharge to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:
1. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C);
  2. Any water or waste containing fats, wax, grease or oils, in excess of 50 milligrams per liter (50 mg/l) or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F.
  3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city.
  4. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not, which are capable of causing any damage or corrosion in the sewers or the sewage treatment plant or interfering with the sewage treatment process.
  5. Any waters or wastes exerting an excessive chlorine requirement to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for such materials.
  6. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving water.
  7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.
  8. Materials which exert or cause:
    - a. Unusual concentrations or inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    - b. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
    - c. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

9. Any waters or wastes containing toxic materials or heavy metals in toxic concentrations.

10. Any waters or wastes containing any measurable trace of the following:

Antimony	Uranyl Ion	Beryllium	Rhenium
Bismuth	Strontium	Cobalt	Tellurium
Molybdenum	Herbicides	Pesticides	Fungicides

11. Chlorinated solvents.

12. Wastes containing sulfides over 5.0 milligrams per liter (mg/l).

13. Septic tank sludge.

14. Any dissolved solids in excess of 600 milligrams per liter (600 mg/l).

15. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

16. Specific attention should be given to toxic materials and heavy metals. These materials constitute an immediate hazard to humans, animals and aquatic life and, in addition, may have cumulative effects. Dilution of such materials in lieu of treatment (removal) is not an acceptable policy.

E. No person shall discharge or cause to be discharged materials which exert or cause BOD in excess of 250 milligrams per liter (250 mg/l), suspended solids in excess of 250 milligrams per liter (250 mg/l) or oil and grease in excess of 50 milligrams per liter (50 mg/l) without prior approval of the superintendent and without paying an abnormal sewage surcharge.

F. The storage of any material in areas draining into the city sewer which, may create a hazard to the sewage works or treatment processes or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the superintendent. He may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

G. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which waters contain the substances or possess the characteristics enumerated hereinabove in this article and which, in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving water or which otherwise may create a hazard to life or constitute a public nuisance, the city may:

1. Reject the wastes.

2. Require pretreatment to an acceptable condition for discharge to the public sewers in accordance with an approved implementation schedule; and/or

3. Require control over the quantities and rates of discharge. If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to requirements of all applicable codes, ordinances and laws and U.S. Environmental Protection Agency guidelines for pretreatment; and/or

4. Require that a wastewater effluent retention basin be provided of adequate volume to insure that slugs of concentrated pollutants are not discharged into the public sewer. If the city requires the retention of wastewater effluent, the design and installation of the retention basin shall be subject to the review and approval of the city.

H. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private

living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection.

- I. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense.
- J. When directed to do so by the city, the owner of any property discharging industrial wastes shall, have a qualified testing laboratory collect a representative sample of his wastewater and have a qualified testing laboratory collect a representative sample of his wastewater and have the appropriate physical, chemical and biological tests performed on this sample. Qualified testing laboratories selected by the owner shall be acceptable to the city. The purpose of such tests shall be to determine the conformance of the wastewater characteristics to this chapter. A report shall be made in writing to the city by the laboratory stating the results of the tests. Required sampling and testing shall be performed in accordance with the provisions of this article.
- K. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association and shall be determined at the control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

(Ord. No. 1989-11, Art. V)

#### **10.08.06. Protection from damage.**

- A. No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.
- B. No unauthorized person shall cover any manhole on a public sewer with earth or paving or otherwise render it inaccessible.
- C. No unauthorized person shall remove the earth cover from a public sewer so that less than two feet of earth cover remains over the pipe bells. Approval to remove subsequent cover shall require written consent from the superintendent.

(Ord. No. 1989-11, Art. VI)

#### **10.08.07. Powers and authority of inspectors.**

- A. The superintendent and authorized employees bearing proper credentials shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge.
- B. While performing the necessary work on private properties referred to in section 10.08.07(A) above, the superintendent or authorized employees shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the city employees. The city employees shall observe all safety rules applicable to the premises established by the company. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 10.08.05(J).
- C. The superintendent and authorized employees bearing proper credentials shall be permitted to enter all private properties through which the city holds a negotiated easement for the purpose of, but not limited to,

inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. No. 1989-11, Art. VII)

#### **10.08.08. Penalties.**

- A. Any person found to be violating any provision of this chapter except section 10.08.06 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in this section and/or any person who shall be found to be violating the provisions of section 10.08.06 of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not more than \$100.00 for each violation and if the act is continuous in nature, in any sum not more than \$100.00 for each day that the same shall be unlawfully continued.
- C. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
- D. In cases of repeated violations, the city may revoke the permission for discharge of wastes into the sewer system and affect the discontinuation of water service, sewer service or both.

(Ord. No. 89-1 1, Art. X.)

#### **10.08.09. Backflow device and emergency pop-off device.**

- A. *Purpose.* The city council finds that special circumstances exist within the city that call for the requirement that a backflow device and an emergency pop-off device be installed at sewer service connection lines of all new residences constructed within the city to reduce the possibility of sewage problems and to increase the overall quality of life of the citizens of Prairie Grove.
- B. *Definitions.* For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings ascribed to them in this section:
  - Backflow device* means any device which is designed to prevent the flow of sewage from the city's service connection line toward any residential structure, or away from the city's sewer line.
  - Pop-off device* means any device which is designed to divert the backward flow of sewage in a sewer service connection line to a place outside the line.
  - Residence or residential structure* means any building, structure, or improvement placed on any real property for use as a dwelling house, including, but not limited to, houses, apartment complexes, condominiums, or other structures which are or may be converted for use as a dwelling.
- C. *Requirements for new construction.*
  - 1. It shall be unlawful for any person to install a sewer service connection line in connection with new construction of a residential structure without installing a backflow device and an emergency pop-off device on the residential structure's sewer service connection line.
- D. *Requirements for existing structures.* It shall be unlawful for any person to install a sewer service connection line for the purpose of providing sewer service to an existing structure which has not had any previous sewer service without installing a backflow device and an emergency pop-off device on the residential structure's sewer service connection line.
- E. *Exceptions.*

1. Notwithstanding the provisions of subsections (C) and (D), this section does not require:
2. a. Installation of a backflow device and an emergency pop-off device on sewer service connection lines existing on the day of passage of the ordinance from which this chapter is derived;
  - b. Installation of a backflow device and an emergency pop-off device to a sewer service connection line by the owner of the property adjacent to property upon which new construction or converted construction is occurring merely because a sewer service connection line crosses the adjacent property owner's land.
3. Notwithstanding the provisions of subsections (C) and (D), this section does not apply:
  - a. To construction or conversion of structures for a commercial or industrial use;
  - b. To construction of structures for use by the city, the state, the United States, or any governmental entity or agency.

(Ord. No. 99-9, §§ 1–5)

## CHAPTER 10.12 WATER AND SEWER RATES AND RULES

### 10.12.01. Water and sewer service rates.

From and after the effective date of the ordinance from which this chapter is derived, the water usage of each customer shall be determined each month by meter measurements and the amount to be paid by each customer shall be computed on the basis of the schedule of water rates, as listed in sections 10.12.01(A) and 10.12.01(B). Sewer usage, for residential customers, shall be determined based upon an average of water usage during the five winter months between November and March. Summer usage will be based for the remaining seven months upon the average of the previous five months. Commercial and industrial accounts, however, will be based strictly on metered water consumption. All sewer charges shall be based on water consumption as measured by the service meter and the amount to be paid by each customer shall be computed upon the basis of the schedule of sewer rates listed in section 10.12.01(A).

*Table of water rates amended.* From and after February 1, 2021, section 10.12.01(A) of the Prairie Grove Municipal Code, the table of water rates, shall be amended to read as follows:

A. *Water.*

<i>City Rates</i>	
Effective 1/1/21	
Minimum rate/up to 1,000 gallons	\$11.14
Everything over 1,000 gallons	\$6.91 per 1,000 gallons
Effective 1/1/22	
Minimum rate/up to 1,000 gallons	\$11.21
Everything over 1,000 gallons	\$6.98 per 1,000 gallons
Effective 1/1/23	
Minimum rate/up to 1,000 gallons	\$11.33
Everything over 1,000 gallons	\$7.10 per 1,000 gallons
Effective 1/1/24	
Minimum rate/up to 1,000 gallons	\$11.48
Everything over 1,000 gallons	\$7.35 per 1,000 gallons
<i>Rural and NW Rural Rates</i>	

Effective 1/1/21	
Minimum rate/up to 1,000 gallons	\$30.07
Everything over 1,000 gallons	\$6.91 per 1,000 gallons
Effective 1/1/22	
Minimum rate/up to 1,000 gallons	\$30.14
Everything over 1,000 gallons	\$6.98 per 1,000 gallons
Effective 1/1/23	
Minimum rate/up to 1,000 gallons	\$30.26
Everything over 1,000 gallons	\$7.10 per 1,000 gallons
Effective 1/1/24	
Minimum rate/up to 1,000 gallons	\$30.41
Everything over 1,000 gallons	\$7.35 per 1,000 gallons

A BWRPWA fee of \$1.50 per metered customer shall remain in effect for the purpose of paying for BWRPWA future capital improvements and expansion.

*Table of sewer rates amended.* From and after February 1, 2021, section 10.12.01(B) of the Prairie Grove Municipal Code, the table of sewer rates, shall be amended to read as follows:

B. *Sewer.*

Effective 1/1/21	
Minimum rate/up to 1,000 gallons	\$18.71
Everything over 1,000 gallons	\$6.37 per 1,000 gallons
Effective 1/1/22	
Minimum rate/up to 1,000 gallons	\$18.82
Everything over 1,000 gallons	\$6.48 per 1,000 gallons
Effective 1/1/23	
Minimum rate/up to 1,000 gallons	\$18.94
Everything over 1,000 gallons	\$6.60 per 1,000 gallons
Effective 1/1/24	
Minimum rate/up to 1,000 gallons	\$19.07
Everything over 1,000 gallons	\$6.73 per 1,000 gallons

C. *Tapping fee.* The following schedule of fees and charges will be in effect for new service connections to the water and sewer system.

Water Connection Charge	
¾" tap or smaller	\$500.00 inside city limits
	\$680.00 outside city limits
1" tap	\$550.00 inside city limits
	\$730.00 outside city limits
1½" tap	\$700.00 inside city limits
	\$880.00 outside city limits
2" tap	\$900.00 inside city limits

	\$1,080.00 outside city limits
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Fees for services larger than two inches will be an additional \$500.00 for each additional one inch of meter size.

Sewer Connection Charge	
To serve residential connection	\$500.00 per occupied unit
To serve commercial ¾" water service	\$500.00 per occupied building unit
To serve commercial 1" service	\$750.00 per occupied building unit
To serve commercial 1½" service	\$1,000.00 per occupied building unit
To serve commercial 2" service	\$1,500.00 per occupied building unit
Fees for services larger than 2" will be an additional \$750.00 for each additional 1" of water service size.	

*Extra fee for boring.* Road bores up to two inches in diameter will be billed at \$15.00 per linear foot where required for service connections. All bores larger than two inches in diameter will be based on actual cost at the time of construction.

- D. *Meter deposit required.* All customers who apply for service to the water or sewer system of the city shall be required to put up a service deposit to be held by the business office until the customer discontinues service with the utility, at which time the deposit will be applied to the final bill owed by the customer. The service deposit shall be as follows:

¼" and 1" services	\$75.00
¾" and 1" commercial/industrial	\$150.00
1½" services	\$200.00
2" services	\$300.00
Residential rental unit rate	\$125.00

- E. *Multiple-user connections.* No more than one user is allowed on any single meter without the express approval of the city. Where multiple-users are allowed, water, sewer, and sanitation rates will be adjusted based on the number of users on a single metered use. Minimum water and sewer charges will be multiplied by the number of established users and the minimum amount of water allowed also multiplied and adjusted to match that established number of users. Water or sewer in excess of the minimum amount will be billed according to the standard rate table listed in section 11.12.01(A) and (B).
- F. *Construction/hydrant use.* The sale of water to contractors or for construction purposes shall be billed based on metered use or by a capacity estimates of the hauling reservoir. A surcharge of \$25.00 shall be charged in addition to water charges based on the schedule of charges as listed in section 10.12.01(A) and (B).
- G. *Payments due.* All bills for water, sewer, or trash shall be sent out during the last week of every month. A date for penalty assessment shall be determined and listed on the customer's bill, and said date shall be no sooner than 14 days after the billing date. Following that established date, a penalty of ten percent of the amount of the bill shall be applied to all charges listed.

If the amount continues to remain unpaid by the 18th day of the month or after following the billing date, a notice shall be delivered to the customer with a date and time for the discontinuance of service due to non-payment. A \$5.00 penalty fee will be imposed for the delivery of shut-off notices. Service to the customer will be terminated no less than 48 hours after the issuance of the turn-off notice.

Once service is disconnected, the total amount owed on the account shall be paid in full, as well as a fee for the reconnection of service. Said fee shall be \$40.00 during regular business hours and \$80.00 on weekends, holidays and after regular business hours.

- H. *Fee established.* A service fee of \$25.00 will be charged for all non-emergency service calls after hours, on weekends, or on holidays.
- I. None of the water facilities or water services afforded by the city water department shall be furnished without a charge being made therefore.
- J. Customers who have had service with the city and have not paid their final bill from their previous service within 60 days of the termination of that service will be charged the balance of any unpaid service, plus a deposit twice the deposit amount for the type of service.

Customers with a previous history of repeated and delinquent payments, defined as a customer whose service was disconnected for non-payment once within the final 12 months of their previous service, or a customer issued a disconnect notice six times within the final 12 months of their previous service will be charged double the deposit amount for the type of service applied. This includes past due accounts with the applicant for service or any other established user determined to be at that address for which service is requested or in use.

Any customer with a delinquent account that is residing and utilizing water at a service address on the system, even if that service is in a name other than the name of the delinquent account, shall not receive water until the account is paid for all users known to be utilizing the services provided by that service. Service may be terminated unless the delinquent account is paid in full.

- K. *Returned check fee.* Any check returned unpaid by the bank to the city water department will require restitution paid in cash, plus a \$40.00 service charge.
- L. *Convenience fee.* All persons paying their water and/or sewer bills through the internet or by credit card shall be assessed a convenience fee of \$0.50 plus 0.75 percent of the amount of the bill, in addition to all other charges, fees and taxes, to cover the costs of the payment processing center.
- M. *Backflow device fee.* All customers, who utilize a backflow preventer device on their private plumbing system as required by the state plumbing code, shall be assessed a fee of \$2.00 per month to cover the expenses of the city's certification process.
- N. *Health department fee.* Every water customer shall pay an additional fee of \$0.30 per meter to be remitted to the health Department.
- O. *Fire line access fee.* There is hereby assessed to every customer who connects to the city water system for fire service protection a monthly connection fee as follows:

Fire line fee	\$25.00/month
Fire suppression system activation	\$250.00 each incident

(Ord. No. 2004-26, § 1; Ord. No. 2009-8, § 2; Ord. No. 2013-27, § 3; Ord. No. 2015-9, §§ 3—6; Ord. No. 02-16, § 1; Ord. No. 2019-37, § 2; Ord. No. 2020-35, §§ 2, 3)

**10.12.02. Definitions.**

*City service* shall be deemed to apply to water service delivered to consumers at a metered location within the corporate limits of the city.

*Multi-family dwelling unit* shall be deemed to apply to buildings which provide dwelling or business space for more than one family and a mobile home park shall be considered a multi-family dwelling unit.

*Person* shall be deemed to apply to any individual, corporation or other legal entity.

*Rural service* shall be deemed to apply to water service delivered to consumers at a metered location outside the corporate limits of the city.

(Ord. No. 1992-6, § 2)

### **10.12.03. Private water systems prohibited.**

From and after the date of passage hereof it shall be unlawful for any person to operate a private water system, as defined by the state department of health, inside the corporate limits or established service area of the city.

(Ord. No. 2001-17, § 2)

### **10.12.04. Collections.**

A single statement shall be issued to customers for monthly water, sewer, and refuse collection charges. Collections of customer-billed fees shall be applied first to the discharge of sewer charges. Penalties for late payments shall be assessed as set out in section 10.12.01(J) above.

(Ord. No. 2001-17, § 3.)

### **10.12.05. Health department rules and regulations adopted.**

Rules and regulations of the state health department, as they may from time to time be published are hereby adopted and incorporated herein by reference and the city clerk is directed to maintain three copies thereof in the city office at all times hereafter.

(Ord. No. 1992-6, § 8)

### **10.12.06. Promulgation of rules.**

The water and sewer superintendent is hereby authorized to promulgate written rules and regulations which shall constitute a policy for application in the extension of water and sewer service both within and without the city when it has been approved by resolution of the city council.

(Ord. No. 1992-6, § 9)

### **10.12.07. Penalty clause.**

Any person found to be in violation of any provision of Prairie Grove Municipal Code, chapter 10.12 shall be deemed guilty of a misdemeanor and may be fined such amount as is allowed by law.

(Ord. No. 1992-6, § 10)

# TITLE 11

## BUILDINGS AND CONSTRUCTION

### CHAPTER 11.01 FEE WAIVERS

#### 11.01.01. Fee waivers.

Any alderman may present a resolution for consideration to the city council to waive or reduce any fee required by title 11 of the Prairie Grove Municipal Code, when:

- A. The work is being conducted by a non-profit organization or church; and
- B. The waiver or reduction would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole.

(Ord. No. 2018-01, § 2)

### CHAPTER 11.02 BUILDING OFFICIAL/ENFORCEMENT

#### 11.02.01. Office of building official.

There is hereby created within the city the office of building official. The building official shall be the person responsible for all activities, including permitting, inspections and enforcement of the adopted codes within title 11 of the Prairie Grove Municipal Code, including, but not limited to: the plumbing code; the electrical code; the fire prevention code; the mechanical code; the fuel gas code; the property maintenance code; and the energy code.

(Ord. No. 2018-01, § 2)

#### 11.02.02. Authority/right of entry.

The building official shall have the right to enter upon any property, building or structure located within the corporate limits of the city, and any property, building or structure located outside the corporate limits of the city but connected to the city's water system, at any reasonable time, pursuant to their duties under this title 11.

(Ord. No. 2018-01, § 2)

#### 11.02.03. Enforcement.

Whenever the building official shall determine that any condition exists which violates one or more of the adopted codes herein, he is authorized to undertake the following enforcement actions.

- A. *Notice of violation.* The building official shall issue a written notice of violation to the person responsible for the violating condition, stating the address of the property, specifying the nature of the violation, describing the remedial actions needed to bring the violating condition into compliance, and stating a deadline for compliance. If the person responsible for the violating condition is a sub-contractor, the notice of violation shall be served on the contractor as soon as practicable.
- B. *Stop work order.* If a notice of violation issued above is not complied with, the building official is authorized to issue a stop work order, which shall demand that all work at the site cease immediately until the violating condition is remedied. The stop work order shall be posted on the property and served on the contractor or owner.

- C. *Further work.* If any work continues at the site in violation of the stop work order, the owner or contractor shall be guilty of a misdemeanor and fined an amount of not less than \$100.00 and not more than \$250.00. Every day such violation continues shall be a separate offense.
- D. *Removal of work.* The building official shall have the authority to order the removal of non-conforming work or work which prevents the inspection of non-approved work in order to conduct such inspection. Should the responsible party not remove the work, the building inspector is authorized to remove the work themselves in order to conduct such inspection.
- E. *Service.* Service for the purpose of this chapter shall mean the following:
  - F. 1. Posting of the notice in a conspicuous place on the property; and either,
    - 2. Personal service on the owner of the property, the contractor, or the person responsible for the work; or
    - 3. Mailing a copy of the notice to the owner of the property, the contractor or the person responsible for the work by certified mail return receipt requested at their last known address. Should the letter be returned undelivered, the posting of notice under subsection (1) above shall suffice.

(Ord. No. 2018-01, § 2)

#### **11.02.04. Appeal.**

The city planning commission is hereby designated as the board of appeals for decisions of the building official under the various adopted codes.

(Ord. No. 2018-01, § 2)

### **CHAPTER 11.04 ELECTRICAL CODE**

#### **11.04.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the electric code provisions set forth by the Arkansas Board of Electrical Examiners, as may from time to time be amended and adopted by the state, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the National Electrical Code, 2017 edition, of the National Fire Protection Association.

(Ord. No. 2018-01, § 2)

#### **11.04.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the electrical code.

(Ord. No. 2018-01, § 2)

#### **11.04.03. Duties.**

The building official shall have the duty and is hereby authorized, empowered and directed to regulate and determine the placing of electrical wires or other appliances for electric lights, heat or power in the city and to cause all such wires, appliances or apparatus to be placed, constructed and guarded as not to cause fires or accidents, endangering life or property, and to be constructed as to keep to a minimum the loss or waste of electric current. It shall be the duty of the building official to enforce all provisions of this chapter and they are hereby granted the authority to enter all buildings in the city in the performance of their duties between the hours

of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the building official may enter buildings for such purposes at other than the designated hours. It shall be the duty of the building official to inspect and/or test all electrical work and equipment or apparatus for compliance with the code. Whenever electric wiring, appliances or apparatus shall be defective or hazardous through improper manufacture, improper or insufficient insulation, improper installation, or for any other reason, they shall at once cause the removal of such defect or defects at the expense of the owners of such wiring, appliance or apparatus.

(Ord. No. 2018-01, § 2)

#### **11.04.04. Permits.**

No installation, alterations, or removal shall be made in or of the wiring of any building or structure for light, heat or power or to increase the load of energy carried by such wires or equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatus, or heating devices nor alterations made thereto without a written permit being first obtained from the city.

(Ord. No. 2018-01, § 2)

#### **11.04.05. Inspections.**

Upon the completion of the wiring, installation or alteration of any building or structure for light, heat, power, appliance or apparatus, it shall be the duty of the person, firm or corporation having direct charge of such to notify the building official who shall as early as possible inspect such wiring, installation, appliance, and apparatus and if installed, altered and constructed in compliance with the permit and the applicable requirements of this chapter, they shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of the examination, but no such certificate shall be issued unless such electric wiring, motors, heating devices, appliances and apparatus be in strict accord with the rules, requirements and spirit of this chapter, nor shall current be turned on such installation, equipment, appliance, motor, heating device and apparatus until said certificate be issued.

(Ord. No. 2018-01, § 2)

#### **11.04.06. Liability insurance required.**

Every master electrician applying for a permit shall carry liability insurance as set forth below:

General aggregate	\$100,000.00
Personal	\$100,000.00
Each occurrence	\$100,000.00

(Ord. No. 2018-01, § 2)

#### **11.04.07. Exemptions.**

The following shall be exempt from the provisions set forth herein:

- A. Any construction, installation, maintenance, repair, or renovation related to a public utility, electrical cooperative, publicly owned and operated power plants, water or wastewater treatment plant, and publicly owned property whose primary function is not primarily intended for the use of general public including but not limited to mechanical systems, maintenance facilities, traffic control systems, and municipal lighting.
- B. A permit is not required for minor repairs, replace of fuses or lamps, or the connection of portable electrical equipment to permanently installed receptacles.

- C. A permit may be issued to a property owner to install electrical installations in a single-family residence, provided the property owner does the work themselves, and the building is owned and occupied by such owner as their home, as demonstrated by continual occupancy for at least six months duration. Such electrical work shall comply with the requirements of this chapter.

(Ord. No. 2018-01, § 2)

**11.04.08. Power company.**

- A. An electrical utility company shall not install a meter before approval is received from the building official when there have been installations, changes, additions, alterations or repairs to the electrical systems.
- B. An electrical utility company shall not install a meter when faulty electrical wiring is evident and a hazard exists.

(Ord. No. 2018-01, § 2)

**11.04.09. Miscellaneous provisions.**

- A. Standard switches, household light switches, or toggle switches shall not be used in place of a disconnect or circuit breaker for mechanical systems or equipment. All equipment shall be equipped with a standard grounded plug and receptacle or a mechanical disconnect in an approved, lockable box.
- B. Any connection to existing electrical equipment or wiring that does not meet current code requirements shall be replaced and updated to meet current code provisions from the point of connection to an approved location of approved disconnect, circuit breaker, or to a location which replaces all sections of non-complying wires and/or equipment.

(Ord. No. 2018-01, § 2)

**11.04.10. Failure to comply.**

Any person, firm, or corporation who shall fail to correct any defect or defects in their work or to meet the required standards after having been given notice of the unfit condition by the building official, within a reasonable time, shall be refused any other permit until such defect or defects have been corrected and shall be subject to revocation of license for continual defective work or either upon conviction for violation of the provisions of this chapter. Upon failure to comply with this chapter, the building official shall have the authority, after due notice, to disconnect electric current to the property concerned.

(Ord. No. 2018-01, § 2)

**11.04.11. Penalties.**

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10.00 nor more than \$100.00 together with the costs of such prosecution. Each day during which such violation continues shall be a separate offense.

(Ord. No. 2018-01, § 2)

**11.04.12. Fees.**

Minimum permit fee	\$15.00
Service up to 100 amps	\$8.00
Each additional 100 amps	\$5.00
1—10 openings	\$17.00 total

Each additional opening	\$0.30 each
Yard line	\$2.50
Solar panel installation (1—10)	\$20.00
All over 10 panels	\$2.00 each
Backup generators	\$25.00
Re-establish service	\$8.00
Each re-inspection	\$25.00
Remodel/repair service drops	\$20.00
Working without a permit fee	\$150.00

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.08 PLUMBING CODE**

### **11.08.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Arkansas Plumbing Code, with state adopted appendices, as may from time to time be amended and adopted by the state, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the Arkansas Plumbing Code, 2006 edition as amended in September 2008.

(Ord. No. 2018-01, § 2)

### **11.08.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the plumbing code.

(Ord. No. 2018-01, § 2)

### **11.08.03. Duties.**

The building official shall have the duty and is hereby authorized, empowered and directed to regulate and determine the placing of plumbing in the city and to cause all such plumbing to be placed, constructed and guarded in compliance with the provisions and spirit of this chapter. It shall be the duty of the building official to enforce all provisions of this chapter and they are hereby granted the authority to enter all buildings in the city in the performance of their duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the building official may enter buildings for such purposes at other than the designated hours. It shall be the duty of the building official to inspect and/or test all plumbing work and equipment or apparatus for compliance with the code. Whenever plumbing, appliances or apparatus shall be defective or hazardous through improper manufacture, improper installation, or for any other reason, they shall at once cause the removal of such defect or defects at the expense of the owners of such plumbing, appliance or apparatus.

(Ord. No. 2018-01, § 2)

### **11.08.04. Permits.**

No installation, alterations, or removal shall be made in or of the plumbing of any building or structure, nor shall any building or structure be plumbed nor alterations made thereto without a written permit being first obtained from the city.

(Ord. No. 2018-01, § 2)

**11.08.05. Inspections.**

Upon the completion of the plumbing of any building or structure, it shall be the duty of the person, firm or corporation having direct charge of such to notify the building official who shall as early as possible inspect such plumbing and if installed, altered and constructed in compliance with the permit and the applicable requirements of this chapter, they shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of the examination, but no such certificate shall be issued unless such plumbing be in strict accord with the rules, requirements and spirit of this chapter, nor shall water service be turned on such installation, equipment, appliance, or apparatus until said certificate be issued.

(Ord. No. 2018-01, § 2)

**11.08.06. Liability insurance required.**

Every master plumber applying for a permit shall carry liability insurance as set forth below:

General aggregate	\$100,000.00
Personal	\$100,000.00
Each occurrence	\$100,000.00

(Ord. No. 2018-01, § 2)

**11.08.07. Additional jurisdiction.**

As mandated by the state department of health, the requirements of this chapter shall apply to all properties, plumbing installations, and facilities serviced by the city water department, whether within or outside the city limits.

(Ord. No. 2018-01, § 2)

**11.08.08. Exemptions.**

The following shall be exempt from the provisions set forth herein:

- A. A permit may be issued to a property owner to install plumbing in a single-family residence, provided the property owner does the work themselves, and the building is owned and occupied by such owner as their home, as demonstrated by continual occupancy for at least six months duration. Such plumbing work shall comply with the requirements of this chapter.
- B. A permit is not required for minor repairs to faucets, valves, supply lines, appliance fittings, or line blockages.
- C. Nothing herein shall apply to public utilities, publicly-owned facilities, or public employees who are performing necessary plumbing connections to utility or city-owned mains, lines, equipment or buildings.

(Ord. No. 2018-01, § 2)

**11.08.09. Street openings.**

- A. All openings made in the public streets or alleys to install plumbing must be made as carefully as possible and all materials excavated from the trenches shall be removed or placed where the least inconvenience to the public will be caused.

- B. All openings must be replaced in precisely the same condition as before the excavation started and all rubbish and materials must be removed at once, leaving the street or sidewalks clean and in perfect repair.
- C. All openings shall be marked with sufficient barriers. Flares or red lamps shall be maintained around the opening at night and all other precautions shall be taken by the plumber or excavator to protect the public from damage to person or property.

(Ord. No. 2018-01, § 2)

**11.08.10. Cross connections.**

The city water department and the building official are hereby authorized to discontinue or cause to be discontinued all water service or services to any and all premises, lands, buildings or structures where it is found that an immediate hazard exists to the purity or potability of the city water supply, by reason of the requirements of the state plumbing code, the state department of health and the provisions of this chapter having not been complied with.

The city water department and the building official are hereby authorized and directed to take such steps as necessary to determine all potential hazards to the purity or potability of the city water supply that exist. Upon determining said potential hazards, it shall be the duty of said department and official to immediately cause notice to go to the owner or such other person responsible for said premises, specifying said hazards, and notifying said person that in the event that said hazard is not corrected within 30 days from the date of said notice, all water services shall be discontinued thereafter until the requirement of the state plumbing code, the state department of health and this chapter have been complied with.

(Ord. No. 2018-01, § 2)

**11.08.11. Penalties.**

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10.00 nor more than \$100.00 together with the costs of such prosecution. Each day during which such violation continues shall be a separate offense.

(Ord. No. 2018-01, § 2)

**11.08.12. Fees.**

Minimum permit fee	\$15.00
Water heater	\$8.00
Additional fixtures	\$3.00 each
Concrete slab	\$8.00
Backflow device	\$20.00 each
Outside city	\$15.00
Yard lines	\$2.50 each
Each re-inspection	\$25.00
Working without a permit fee	\$150.00

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.12 PROPERTY MANAGEMENT CODE**

### **11.12.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the International Property Management Code as published by the International Code Commission, as may from time to time be amended, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the International Property Management Code, 2006 edition.

(Ord. No. 2018-01, § 2)

### **11.12.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the property management code and shall be considered the "code official" under section 103.1 and elsewhere in the property management code.

(Ord. No. 2018-01, § 2)

### **11.12.03. Revisions.**

The following sections in the International Property Management Code are revised, amended or deleted to read as follows:

Section 101.1 The [NAME OF JURISDICTION] is amended to City of Prairie Grove, Arkansas.

Sections 103.2 and 103.3 are deleted. Section 103.4 is renumbered 103.2.

Section 103.5 is renumbered 103.3 and amended to read as follows: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in Prairie Grove Municipal Code title 11.

Section 111.1 "Board of appeals" shall be changed to "board of adjustment."

Section 111.2 is deleted.

Section 111.4 "two-thirds" shall be changed to "one-half."

Section 111.5 is deleted.

Section 111.6 is amended to read "The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of those present."

Sections 111.7 and 111.8 are deleted and replaced with the following:

Section 111.7 Appeal. Any party to an appeal shall have the right to appeal the decision of the board of adjustment to the city council in accordance with the procedures for other appeals of decisions of the board of adjustment found elsewhere in the Prairie Grove Municipal Code.

Section 302.4 [HEIGHT IN INCHES] is amended to read six inches.

Section 304.14 is amended to read June 1st in the first location [DATE] is shown and September 30th in the second location [DATE] is shown.

Sections 602.3 and 602.4 are amended to read October 1st in the first location [DATE] is shown and April 30th in the second location [DATE] is shown.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.16 FIRE PREVENTION CODE**

### **11.16.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Arkansas Fire Prevention Code, Volumes I, II and III, with state adopted appendices, as may from time to time be amended and adopted by the state, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the Arkansas Fire Prevention Code, Volume I, II and III, 2012 edition.

(Ord. No. 2018-01, § 2)

### **11.16.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the fire prevention code.

(Ord. No. 2018-01, § 2)

### **11.16.03. Duties.**

The building official shall have the duty and is hereby authorized, empowered and directed to regulate and enforce all requirements relating to the construction, alteration, removal, and demolition of buildings and structures. The building official shall have the right to enter any building or structure pursuant to their duties under this chapter.

(Ord. No. 2018-01, § 2)

### **11.16.04. Permits.**

- A. No construction, alteration, renovation or demolition of any structure shall be made without a written permit being first obtained from the city.
- B. Prior to the construction or renovation of any and all multi-family, commercial, and publicly-owned structures, the owner of said property shall be required to submit a set of engineering plans for review and approval by the city building official, including engineered design standards for live and dead loads, snow loads (minimum 20 psi required), wind loads, occupant loads, and an ADA compliance statement. In addition, the city reserves the right for an independent review for plans which are unusual, special or which may require hazardous use of the buildings submitted for review. Any costs associated with independent review will be borne by the plan submitter.
- C. All new occupancies of any type, of more than two stories or greater than 12,000 square feet in area shall be sprinklered in accordance with the National Fire Protection Association Code (NFPA 13) standard for the installation of sprinkler systems, unless a variance is granted by the board of adjustment pursuant to procedures established in the zoning ordinance. this requirement does not apply to single-family residences.
- D. When a building project remains idle or fails to make significant progress towards completion for a period of 90 days, the permit shall lapse. The same shall be subject to re-permitting at the full value of permit fees then in effect.

(Ord. No. 2018-01, § 2)

### **11.16.05. Inspections.**

Inspections shall be required as set forth in the applicable codes. Once a building or structure has passed all necessary inspections, the building official shall issue a certificate of occupancy.

(Ord. No. 2018-01, § 2)

### 11.16.06. Exemptions.

The following shall be exempt from the provisions set forth herein:

- A. Re-roofing of existing residential dwelling units, including detached garages and portable buildings or residential accessory buildings, shall not require a permit. However, the project is not exempt from meeting all code requirements, and in no case shall asphalt or fiberglass composite roofs ever exceed more than two layers of shingle. In the case of new installation of roofing different than the roofing material to be covered, the roof shall be required to be torn down to structural roof sheathing before the new material is installed.
- B. Accessory buildings meeting the requirements of portable as defined in the zoning ordinance section 14.04.01 are not required to meet the building regulations adopted herein.

(Ord. No. 2018-01, § 2)

### 11.16.07. Penalties.

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10.00 nor more than \$100.00 together with the costs of such prosecution. Each day during which such violation continues shall be a separate offense.

(Ord. No. 2018-01, § 2)

### 11.16.08. Fees.

- A. For new construction, fees will be based on the heated square footage of the structure using the following schedule of fees.

<i>Single-Family/Duplex</i>	
First 2,000 sq. ft.	\$0.39/sq. ft.
Next 2,000 sq. ft.	\$0.36/sq. ft.
All above 4,000 sq. ft.	\$0.32/sq. ft.
<i>Multi-Family (all multiple housing units with more than 2 units under one roof)</i>	
First 4,000 sq. ft.	\$0.42/sq. ft.
Next 4,000 sq. ft.	\$0.38/sq. ft.
All above 8,000 sq. ft.	\$0.35/sq. ft.
<i>Commercial/Public/Office</i>	
First 2,000 sq. ft.	\$0.48/sq. ft.
Next 8,000 sq. ft.	\$0.42/sq. ft.
All above 10,000 sq. ft.	\$0.36/sq. ft.
<i>Industrial</i>	
First 5,000 sq. ft.	\$0.50/sq. ft.
Next 15,000 sq. ft.	\$0.44/sq. ft.
All above 20,000 sq. ft.	\$0.38/sq. ft.
<i>Remodels/Alterations.</i> For remodels, alterations, re-roofs or structural work that does not entail expansion of the existing footprint of a structure, permit fees will be based on the estimated cost of the work, using the following schedule of fees:	

First \$1,000.00 of work	\$20.00
All over \$1,000.00	\$5.00 per thousand or part thereof
<i>Demolition.</i> For demolition of any structure, a demolition permit fee of \$10.00 shall be required. All utilities shall be capped and/or properly disconnected and the ground surface returned to surrounding grade and seeded/sodded.	
<i>Re-inspections.</i> Whenever a building or structure fails for any reason, to pass an inspection, there will be an additional fee of \$25.00 for each re-inspection required.	
Working without a permit	\$150.00

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.20 FUEL GAS CODE**

### **11.20.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Arkansas Fuel Gas Code, with state adopted appendices, as may from time to time be amended and adopted by the state, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the Arkansas Fuel Gas Code, 2006 edition.

(Ord. No. 2018-01, § 2)

### **11.20.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the fuel gas code.

(Ord. No. 2018-01, § 2)

### **11.20.03. Duties.**

The building official shall have the duty and is hereby authorized, empowered and directed to regulate and determine the placing of piping and gas-fuel appliances and equipment in the city and to cause all such piping, appliances or apparatus to be placed, constructed and guarded as not to cause fires or accidents, endangering life or property. It shall be the duty of the building official to enforce all provisions of this chapter and they are hereby granted the authority to enter all buildings in the city in the performance of their duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the building official may enter buildings for such purposes at other than the designated hours. It shall be the duty of the building official to inspect and/or test all gas piping work and equipment or apparatus for compliance with the code. Whenever piping, appliances or apparatus shall be defective or hazardous through improper manufacture, improper installation, or for any other reason, they shall at once cause the removal of such defect or defects at the expense of the owners of such piping, appliance or apparatus.

(Ord. No. 2018-01, § 2)

### **11.20.04. Permits.**

No installation, alterations, or removal shall be made in or of the piping of any building or structure, nor shall any building or structure be piped for fuel gas, appliances, motors, apparatus, or heating devices nor alterations made thereto without a written permit being first obtained from the city.

(Ord. No. 2018-01, § 2)

### 11.20.05. Inspections.

Upon the completion of the piping, installation or alteration of any building or structure for fuel gas, it shall be the duty of the person, firm or corporation having direct charge of such to notify the building official who shall as early as possible inspect such piping, installation, appliance, and apparatus and if installed, altered and constructed in compliance with the permit and the applicable requirements of this chapter, they shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of the examination, but no such certificate shall be issued unless such piping, appliances and apparatus be in strict accord with the rules, requirements and spirit of this chapter, nor shall fuel be turned on such installation, equipment, appliance, motor, heating device and apparatus until said certificate be issued.

(Ord. No. 2018-01, § 2)

### 11.20.06. Liability insurance required.

Every master plumber applying for a permit shall carry liability insurance as set forth below:

General aggregate	\$100,000.00
Personal	\$100,000.00
Each occurrence	\$100,000.00

(Ord. No. 2018-01, § 2)

### 11.20.07. Exemptions.

The following shall be exempt from the provisions set forth herein:

- A. A permit may be issued to a property owner to install gas fittings or connections in a single-family residence, provided the property owner does the work themselves, and the building is owned and occupied by such owner as their home, as demonstrated by continual occupancy for at least six months duration. Such plumbing work shall comply with the requirements of this chapter.
- B. Nothing herein shall apply to a publicly-owned or regulated gas company, its agents, servants, and employees conducting its business under the franchise granted by the city in the installations, repair, maintenance, removal, or replacement of gas piping machinery or equipment owned or operated by the gas utility company.

(Ord. No. 2018-01, § 2)

### 11.20.08. Penalties.

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10.00 nor more than \$100.00 together with the costs of such prosecution. Each day during which such violation continues shall be a separate offense.

(Ord. No. 2018-01, § 2)

### 11.20.09. Fees.

1—5 connections	\$17.50
All additional connections over 5	\$1.50 each
Yard line	\$2.50 each
Each re-inspection	\$25.00
Working without a permit fee	\$150.00

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.24 MECHANICAL CODE**

### **11.24.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Arkansas Mechanical Code, with state adopted appendices, as may from time to time be amended and adopted by the state, save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the Arkansas Mechanical Code, 2010 edition.

(Ord. No. 2018-01, § 2)

### **11.24.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the mechanical code.

(Ord. No. 2018-01, § 2)

### **11.24.03. Duties.**

The building official shall have the duty and is hereby authorized, empowered and directed to regulate and determine the placing of HVACR appliances and equipment in the city and to cause all such appliances or apparatus to be placed, constructed and guarded as not to cause fires or accidents, endangering life or property. It shall be the duty of the building official to enforce all provisions of this chapter and they are hereby granted the authority to enter all buildings in the city in the performance of their duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the building official may enter buildings for such purposes at other than the designated hours. It shall be the duty of the building official to inspect and/or test all HVACR work and equipment or apparatus for compliance with the code. Whenever piping, appliances or apparatus shall be defective or hazardous through improper manufacture, improper installation, or for any other reason, they shall at once cause the removal of such defect or defects at the expense of the owners of such piping, appliance or apparatus.

(Ord. No. 2018-01, § 2)

### **11.24.04. Permits.**

No installation, alterations, or removal shall be made in or of the HVACR systems of any building or structure without a written permit being first obtained from the city.

(Ord. No. 2018-01, § 2)

### **11.24.05. Inspections.**

Upon the completion of the piping, installation or alteration of any building or structure for HVACR systems, it shall be the duty of the person, firm or corporation having direct charge of such to notify the building official who shall as early as possible inspect such piping, installation, appliance, and apparatus and if installed, altered and constructed in compliance with the permit and the applicable requirements of this chapter, they shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of the examination, but no such certificate shall be issued unless such piping, appliances and apparatus be in strict accord with the rules, requirements and spirit of this chapter, nor shall power be turned on such installation, equipment, appliance, motor, heating device and apparatus until said certificate be issued.

(Ord. No. 2018-01, § 2)

**11.24.06. Liability insurance required.**

Every master plumber applying for a permit shall carry liability insurance as set forth below:

General aggregate	\$100,000.00
Personal	\$100,000.00
Each occurrence	\$100,000.00

(Ord. No. 2018-01, § 2)

**11.24.07. Exemptions.**

The following shall be exempt from the provisions set forth herein:

- A. A permit may be issued to a property owner to install HVACR equipment, fittings or connections in a single-family residence, provided the property owner does the work themselves, and the building is owned and occupied by such owner as their home, as demonstrated by continual occupancy for at least six months duration. Such HVACR work shall comply with the requirements of this chapter.
- B. Window air conditioners equipped with a standard grounded plug connection, UL approved portable electric heaters, and other stand alone humidifiers, air moving equipment, or ventilation equipment are exempt from the requirements of this chapter.

(Ord. No. 2018-01, § 2)

**11.24.08. Penalties.**

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10.00 nor more than \$100.00 together with the costs of such prosecution. Each day during which such violation continues shall be a separate offense.

(Ord. No. 2018-01, § 2)

**11.24.09. Fees.**

Minimum permit fee	\$15.00
Heat pump/furnace	\$12.00
AC/condenser	\$12.00
Vents/ducts	\$15.00 per 2,000 sq. ft. of building area
Each re-inspection	\$25.00
Working without a permit fee	\$150.00

(Ord. No. 2018-01, § 2)

**CHAPTER 11.28 ENERGY CODE**

**11.28.01. Adoption by reference.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Arkansas Energy Code, with state adopted appendices, as may from time to time be amended and adopted by the state,

save and except such portions of said code as may be deleted, modified or amended herein. At the time of adoption of this Code, the current version is the Arkansas Energy Code, 2011 edition.

(Ord. No. 2018-01, § 2)

### **11.28.02. Designated official.**

The building official in chapter 11.02 is the person charged with the administration and enforcement of the energy code.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.32 MOVING OF BUILDINGS**

### **11.32.01. Applicability.**

No person shall move any house, dwelling, structure or large, heavy object on, over, along or across any street, alley or sidewalk within the city without first securing a permit therefore. All homes and buildings being moved to locations inside the city limits shall demonstrate compliance with all applicable existing city, state and federal codes and regulations for construction and environmental safety. Any such structure moved to a location within the city must comply with the permit requirements established in this chapter. Nothing in this chapter shall be construed to negate the provisions of any city zoning ordinance or any other pertinent ordinances. This chapter shall not apply to the movement of any mobile home, manufactured home or modular structure as those terms are defined by 24 C.F.R. Part 3280.

(Ord. No. 2018-01, § 2)

### **11.32.02. Permits.**

Application for a permit required by this chapter shall be made to the clerk of the city on forms to be provided by the city, which application shall state the loaded height and width of any structure or object to be moved, and shall designate the route over which the same is to be moved, and the time when the same is proposed to be moved.

(Ord. No. 2018-01, § 2)

### **11.32.03. Permit fee.**

The fee for a permit required by this chapter shall be \$200.00 for each mile the structure travels within the corporate limits of the city on the route so designated by the police department as described in section 11.32.04. Partial miles will be measured to the nearest tenth of a mile and the permit fee prorated accordingly.

(Ord. No. 2018-01, § 2)

### **11.32.04. Route to be established.**

The city police department in cooperation with the moving contractor shall select the safest, most direct route out of or through the city as determined by the width of streets, height of overhead wires, setback of structures and other utilities adjacent to the street, proximity of trees to the street and volume of vehicular traffic. The route selected will be designated on the permit as the approved route of travel for the structure. Unapproved variance from the designated route will result in the revocation of the permit, forfeiture of the permit fee and prosecution.

(Ord. No. 2018-01, § 2)

#### **11.32.05. Liability insurance required.**

Each applicant for a permit required by this chapter shall furnish a certificate of liability insurance to the building official against damages to persons or property by reason of such moving in the following amounts:

- A. \$100,000.00 for bodily injury to any one person per occurrence.
- B. \$200,000.00 for bodily injury to more than one person per occurrence.
- C. \$250,000.00 for property damage per occurrence.

(Ord. No. 2018-01, § 2)

#### **11.32.06. Maximum height and width of structure.**

The maximum permissible loaded height of any building or heavy object to be moved shall be 18 feet above street level and the maximum permissible loaded width of any building or heavy object to be moved shall be 26 feet. Any request for a permit to move any structure or object which exceeds the maximum permissible loaded height or width shall be presented to the city council for its approval before the building official shall issue the permit.

(Ord. No. 2018-01, § 2)

#### **11.32.07. Notice required.**

Any applicant desiring to move a house, structure or heavy object through or out of the city shall be required to file application for permit and notify the building official of such intent at least 30 days prior to the desired moving date.

(Ord. No. 2018-01, § 2)

#### **11.32.08. Structure to be moved in a timely manner.**

All structures and heavy objects for which a moving permit has been issued, must be moved on the date specified on the permit. Failure to do so shall result in the revocation of the moving permit and forfeiture of the permit fee to the city.

(Ord. No. 2018-01, § 2)

#### **11.32.09. Consent of owners of utility lines.**

Prior to the issuance of any permit required by this chapter, the applicant shall furnish to the building official evidence of the consent of the owners of any utility lines or coaxial cables not owned by the city which will be moved as a result of moving the structure or heavy object for which the permit is to be issued.

(Ord. No. 2018-01, § 2)

#### **11.32.10. Structure to be moved in accordance with terms of the permit.**

It shall be unlawful for any person to move any structure or large object on, over, along or across any street, alley or sidewalk in the city, except as provided by the terms of the permit secured for such move.

(Ord. No. 2018-01, § 2)

### **11.32.11. Penalties.**

Any person who moves a structure or large, heavy object through or out of the city without obtaining a permit or fails to comply with the requirements of such permit will be subject to fines of not more than \$500.00 or \$1,000.00 for each repetition of such offense.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.36 CONDEMNATION OF BUILDINGS**

### **11.36.01. Unlawful.**

It shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association, to own, keep or maintain any house, building and/or structure within the corporate limits of the city which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the city council.

(Ord. No. 2018-01, § 2)

### **11.36.02. Condemnation required.**

Any such house, building and/or structure which is found and declared to be a nuisance by resolution of the city council will be condemned to ensure the removal thereof as provided herein.

(Ord. No. 2018-01, § 2)

### **11.36.03. Prior notice.**

- A. Prior to the consideration of a resolution by the city council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lienholder(s) of such house, building and/or structure shall be mailed written notification of the date, time and place that the city council will consider said resolution. The notice shall be mailed by certified mail, return receipt requested to their last known place of residence or business. In addition, said notice shall inform the owner(s) and any mortgagee(s) or lienholder(s) of the right to be heard at the city council meeting on the proposed resolution declaring such house, building and/or structure to be a nuisance.
- B. Should the owner(s) and mortgagee(s) and/or lienholder(s) of any such house, building and/or structure be unknown or their whereabouts be unknown, then a copy of the written notice shall be posted upon said premises and the mayor or his designee shall make an affidavit setting out the facts as to unknown address or unknown whereabouts of said owner(s), mortgagee(s) and/or lienholder(s).

(Ord. No. 2018-01, § 2)

### **11.36.04. Requirements of resolution.**

The resolution of the city council condemning any house, building and/or structure which constitutes a nuisance will include in said resolution an adequate description of the house, building and/or structure; the name(s), if known, of the owner(s), mortgagee(s) and/or lienholder(s) thereof; and shall set forth the reason(s) said house, building and/or structure is or has been condemned as a nuisance.

(Ord. No. 2018-01, § 2)

### **11.36.05. Notice of resolution.**

After a house, building and/or structure has been found and declared to be a nuisance and condemned by resolution as herein provided, a true or certified copy of said resolution will be mailed to the owner(s), mortgagee(s) and/or lienholder(s) thereof if the whereabouts of said owner(s), mortgagee(s) and/or lienholder(s)

thereof be known or their last known address be known; and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure. Provided that if the owner(s), mortgagee(s) and/or lienholder(s) be unknown, or their whereabouts or last known address be unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice of the condemnation.

(Ord. No. 2018-01, § 2)

#### **11.36.06. Removal.**

If the house, building and/or structure constituting a nuisance has not been torn down or removed, or said nuisance otherwise abated within 30 days after posting the true copy of the resolution at a conspicuous place on said house, building and/or structure constituting the nuisance, it will be torn down and/or removed by the building official or his designated representative.

(Ord. No. 2018-01, § 2)

#### **11.36.07. Duties of building official.**

The building official or any other person or persons designated by him to tear down and remove any such house, building and/or structure constituting a nuisance will ensure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same have a substantial value, sell said house, building and/or structure, or any saleable materials thereof, by public sale to the highest bidder for cash, ten days' notice thereof being first given by one publication in some newspaper having a general circulation in the city, to ensure its removal and the abatement of the nuisance.

(Ord. No. 2018-01, § 2)

#### **11.36.08. Proceeds of sale.**

All proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this chapter shall be paid by the person or persons collecting the same to the city clerk/treasurer. If any such house, building and/or structure, or the saleable materials thereof, be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the city, plus any fine or fines imposed, plus any costs of notice and attorney's fees, the balance thereof will be returned by the city clerk/treasurer to the former owner(s) of such house, building and/or structure.

(Ord. No. 2018-01, § 2)

#### **11.36.09. Lien.**

If the city has any net costs in removal of any house, building and/or structure, the city shall have a lien on the property as provided by A.C.A. 14-54-904.

(Ord. No. 2018-01, § 2)

#### **11.36.10. Penalty.**

A fine of not less than \$250.00 nor more than \$500.00 is hereby imposed against the owner(s) of any house, building and/or structure found and declared to be a nuisance by resolution of the city council 30 days after the same has been so found and declared to be a nuisance, and for each day thereafter said nuisance be not abated constitutes a continuing offense, punishable by a fine of \$250.00 per day; provided the notice as herein provided in section 11.36.05 hereof has been given within ten days after said house, building and/or structure has been by resolution found and declared to be a nuisance.

(Ord. No. 2018-01, § 2)

### **11.36.11. Judicial condemnation.**

In the event it is deemed advisable by the city council that a particular house, building and/or structure be judicially declared to be a nuisance by a court having jurisdiction of such matters, the city council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city, and the only notice to be given to the owner(s), mortgagee(s) and/or lienholder(s) will be that as now provided for by law in such cases in a court of equity or circuit court. When any such house, building and/or structure has been declared judicially to be a nuisance by a court of competent jurisdiction, a fine of \$100.00 is hereby imposed against the owner thereof from the date said finding is made by the court and for each day thereafter said nuisance is not abated.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.40 USE OF RVs FOR HOUSING**

### **11.40.01. Recreational vehicle restrictions established.**

No person shall occupy or allow occupancy of a recreational vehicle or motor home except as is allowed herein or allowed by any ordinance governing mobile home or recreational vehicle parks.

(Ord. No. 2018-01, § 2)

### **11.40.02. Definition.**

The terms "occupancy" and "allow occupancy" shall be deemed for purposes of this chapter to be the use by one or more persons as a place of rest, sleep, recreation or eating for a substantial portion of the day.

(Ord. No. 2018-01, § 2)

### **11.40.03. Prohibited conduct.**

No person shall occupy or allow occupancy of a recreational vehicle or motor home for more than 14 days in any six-month period without a permit and the occupancy need not occur on consecutive days.

(Ord. No. 2018-01, § 2)

### **11.40.04. Extension beyond 14 days.**

- A. Any person desiring to occupy or allow occupancy of a recreational vehicle for more than 14 days must obtain a permit from the city.
- B. The cost of the extended occupancy permit is \$10.00.
- C. The duration of the extended occupancy permit is limited to 14 additional days.
- D. In order to be granted an extended occupancy permit, the applicant must show evidence:
  1. That the application is approved by owners or occupants of contiguous and adjacent property and other property situate within 200 feet of the lot on which the subject of the application has been placed.
  2. That a proper wastewater connection to the sanitary sewer has been made; or the vehicle is self-contained for disposal to the sanitary sewer or some other method allowed by state and local regulations; and
  3. That all electrical connections are protected to insure the safety and well-being of the public; to comply with the National Electrical Code and are connected to a GFC-type outlet and placement shall meet setback requirements of the zone in which the recreational vehicle is placed.

(Ord. No. 2018-01, § 2)

#### **11.40.05. Penalty.**

Any person found guilty of a violation in the appropriate court shall be guilty of a misdemeanor and may be fined an amount not to exceed \$100.00 for each day of the violation.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.44 FENCES AND WALLS**

#### **11.44.01. Applicability.**

- A. The requirements of this chapter shall apply to the following conditions in all zoning districts, except as exempted in subsection (B), exemptions, below:
1. *New construction.* Construction of a new fence or wall.
  2. *Extension.* Extension of an existing fence or wall.
  3. *Replacement.*
    - a. Replacement of an existing fence or wall that is a different size, at a different location or of a different material (e.g. a chain link fence being replaced by a wood privacy fence); or
    - b. Replacement of any portion of the linear length of an existing fence.
- B. *Exemptions.* This chapter shall not apply to:
1. The A-1 Agricultural zoning district.
  2. Replacement of less than 50 percent of the linear length of any straight run of fence, except that the portion being replaced shall not:
    - a. Impede visibility at the sight triangle of any street intersection, driveway or alley;
    - b. Impede a natural drainage way;
    - c. Be located in a drainage easement, utility easement, or right-of-way;
    - d. Encroach neighboring property lines.

(Ord. No. 2018-01, § 2)

#### **11.44.02. Permit required.**

A fence permit shall be obtained prior to beginning construction and replacement of all applicable fences and walls.

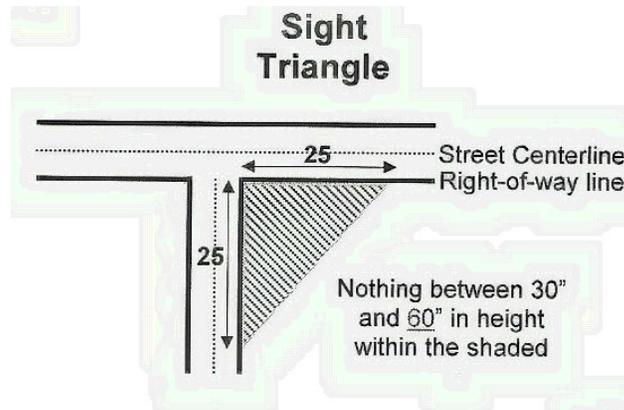
- A. *Application.* To obtain a fence permit, a completed application form and a plot plan (site plan) must be submitted to the building inspection office. The plan shall show:
1. Location of all property lines;
  2. Location of all existing structures;
  3. Location of existing or proposed pools or spas;
  4. Location of existing fencing on or adjacent to the property that is to remain in place;
  5. Portions of existing fence that will be replaced;
  6. Location of new fencing; and,

7. A note indicating the height of the proposed fence and the type of fence construction (e.g., wood privacy, wrought iron, chain link, etc.).
- B. *Review and approval.* Once all the required information is submitted, it will be reviewed by the building inspection office for compliance. If the application is approved, the applicant shall pay the permit fee and the fence permit will be issued.
- C. *Compliance.* All fences or walls must be installed in compliance with the fence regulations and with the information shown on the approved plan and fence permit application form.
- D. *Inspection required.* The applicant shall contact building inspections to request a final inspection upon completion of the fence. If the building inspector determines that the fence is constructed in accordance with the ordinance requirements and the approved fence permit, a certificate of compliance will be issued. If the fence does not pass the inspection, the building inspector shall prepare an inspection report detailing the deficiencies.

(Ord. No. 2018-01, § 2)

### **11.44.03. Fence location.**

- A. *Private property.* All fences and walls shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences and walls shall not encroach neighboring property lines. If the location of the property line is uncertain or in question, the city can require proof in the form of a surveyed line to determine compliance.
- B. *Front yards.* Sight restricting fences are prohibited in front yards and cannot be constructed within the front setback of the lot, defined as the area of a lot defined in the zoning ordinance as front setback in sections 4.4.3 and 4.4.4; with the exception of retaining walls or fences not more than 36 inches in height. The purpose is to restrict sight-restricting fences where back-to-back lots exist and a back yard extends to a street behind the house. A non-sight restricting fence (e.g. chain link) that does not restrict visibility or line of sight may be no more than 48 inches high when located in a front yard.
- C. *Street-facing yards.* Sight restricting fences in a yard fronting a public street or alley, other than a front yard, are prohibited within eight feet of the edge of the street or alley (pavement or gravel) right of way line or must be 36 inches or less in height, or 48 inches in height if constructed of a material that is non-sight restricting (e.g. chain link).
- D. *Rear and side yards.* A fence or wall may be located in the rear or side yard, but shall be in compliance with other requirement of this chapter.
- E. *Adjacent to right-of-way.* Fences and walls adjacent to public streets or alleys must be placed no closer than five feet to the edge of the right-of-way.
- F. *Sight triangle.* Sight restricting fences or walls constructed near public street or alley intersections, shall be prohibited within the "sight triangle" as shown below, in order to provide a reasonable degree of visibility for traffic safety reasons. Any fence or wall deemed to restrict visibility for traffic safety is prohibited.



G. *Easements.*

1. *Utility easements.* Walls used as fences and footings for retaining walls are prohibited in a utility easement. Construction of all other fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by so doing. The fence or wall located in certain utility easements must have a gate installed on each end, the width of the easement, or some other type of removable section, independent of the rest of the fence structure, and approved by the city which would allow the easement to be accessed without removing additional fence.
2. *Drainage easements.* Fences and walls are prohibited within any platted drainage easement. Fences and walls located adjacent to a platted drainage easement shall not impede the normal flow of storm water.

(Ord. No. 2018-01, § 2)

**11.44.04. Design standards.**

The following design standards shall apply to any new fence or replacement of any fence or wall where the length of the replacement exceeds 50 percent of the length of any straight run of fence.

- A. *Height.* Maximum height shall be eight feet above average grade.
- B. *Finished surface.* Finished surface shall face outward from the property. Posts and support beams shall be inside the finished surface or designed to be an integral part of the finished surface unless fence is shared by two neighboring and adjoining properties and an agreement exists as to which side will remain finished.
- C. *Gates.* All fence segments abutting a public street or alley, shall provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. In addition, any areas such as utility or drainage easements that may be cut off from access due to the construction of the fence shall also be provided with a gated opening. An exception may be granted if the city receives a letter from a home owners association that this area is maintained by the association and not by individual homeowners.
- D. *Fence types.*
  1. *Razor wire.* Razor wire is prohibited in the city.
  2. *Barbed wire.* Barbed wire is prohibited in all residential zones, other than A-1, Agricultural zones. Barbed wire shall not be placed within five feet of a public sidewalk nor within four feet of a public street or alley right-of-way if there is no sidewalk.
  3. *Electric fences.* Electric fences are prohibited except in areas zoned A-1 Agricultural. Underground electric pet containment fences are allowed.

4. Sheet metal, scrap wood, plywood, and other materials not normally manufactured for the purpose of construction of fences are prohibited.

(Ord. No. 2018-01, § 2)

#### **11.44.05. Pools and spas.**

Outdoor pools, spas and hot tubs shall be protected by an enclosure designed to restrict access by children. If a fence is intended to serve as the required enclosure, it shall meet the following requirements in addition to those that apply to a fence or wall.

- A. *Height.* The minimum height of the fence enclosure shall be at least 48 inches. The maximum clearance between the bottom of the fence and the ground shall be two inches.
- B. *Gates.* Gates in the enclosing fence shall swing away from the pool/spa area and be designed to be self-closing and self-latching. If the latch or latch-release hardware is on the outside of the fence, it shall be at least 54 inches above the ground. If the latch hardware is on the inside of the fence, it must be at least three inches below the top of the fence and there shall not be any openings more than one-half inch in width within 18 inches of the latch. Gates more than five feet in width and designed for equipment access to the fenced area are not required to be self-closing or self-latching provided they are locked at all times except when needed for access.
- C. *Design.* The fence shall be designed so that there are no opening large enough to allow the passage of a four-inch diameter sphere and so that no "ladder effect" is created on the outside. If a chain link fence material is used, the maximum size of the openings (i.e. the distance between parallel wires) shall not exceed one and one-fourth inches.

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.48 LANDSCAPING**

#### **11.48.01. Statement of purpose.**

The requirements set forth herein are enacted to:

- A. Promote the health, safety and general welfare of the citizens of Prairie Grove;
- B. Enhance the attractiveness of the city by establishing standards for landscaping of new developments or additions in certain zones;
- C. Protect native and specimen trees from unnecessary removal and from damage during construction;
- D. Prevent unnecessary grading of land during construction;
- E. Provide for tree, plant, and other natural vegetation material replacement;
- F. Provide visual screening and sound buffers;
- G. Screen incompatible land uses;
- H. Improve air quality;
- I. Slow or prevent storm water runoff;
- J. Enhance appearance of parking lots;
- K. Provide option of establishing parks within developments;
- L. Provide enhanced habitat for wildlife; and
- M. Ensure compliance with these standards in new developments and renovations.

(Ord. No. 2018-01, § 2)

#### **11.48.02. Jurisdiction.**

The jurisdiction of this chapter shall include all land within the city limits, any land added to the city limits, and/or planning district, for whatever reason, after the adoption of the ordinance from which this chapter is derived.

(Ord. No. 2018-01, § 2)

#### **11.48.03. Applicability.**

- A. The requirements of this chapter shall apply in full, after the date that the ordinance from which this chapter is derived is adopted, to:
  - 1. Zoning districts for which a building permit is required by the city for new construction or addition to existing structure: General Commercial (B-1), Quiet Business (B-2), Residential (R-2), Residential (R-3), Multi-Family Residential (R-2), Office (O-1), Office (O-2) and Manufacturing (M).
  - 2. New parking lots or expansion of existing parking lots in any zone, which will increase parking spaces to 60 or more spaces, or to parking lots with fewer than 60 spaces, when the planning commission deems necessary for improved control and safety of pedestrians and motorists.
  - 3. Any conversion of an existing, pervious, parking lot or driveway to an impervious parking lot or driveway, in any area zoned General Commercial (B-1), Quiet Business (B-2), Residential (R-2), Residential (R-3), Multi-Family Residential (R-2), Office (O-1), Office (O-2) and Manufacturing (M).
- B. In Central Business District (CBD) zones the requirements of this chapter shall apply to any development where the building setbacks to the property lines are adequate to meet the landscape requirements set forth.
- C. Residential zoning districts R-1, R-1.5, and R-1.75 are exempt from the mandatory requirements of this chapter, however single-family developments are encouraged to plant a minimum of two trees and four shrubs, of any size, in the front yard of any single-family development. Any builder meeting the requirements of this voluntary requirement shall receive an incentive credit from the city of \$25.00 that can be utilized on their next building permit.

(Ord. No. 2018-01, § 2)

#### **11.48.04. Landscape site plan requirements.**

Nine copies of the landscape plan shall be submitted with the site plan to the city for review and plan approval with the building permit application. For projects that are subject to large scale development approval, the plan shall be presented by a licensed architect, engineer, or landscape architect, with the LSD plans at the time of planning commission review.

- A. Total square footage of proposed landscape area.
- B. Development project title with names and contact information of project planner, developer, owner, landscape architect or landscaper; scale, date, legend, North arrow, and general vicinity map indicating existing land uses abutting all boundaries of the proposed development.
- C. Street frontage buffer, perimeter buffer of sides and back with landscaping area marked with legend symbols for proposed landscaping, right of way, and easements. See sections 11.48.06 and 11.48.07 for specific requirements.
- D. Proposed parking lot buffer landscaping, as required in section 11.48.08, marked with legend symbols, including number of parking spaces; location of ingress, egress, and access roadways; location of pedestrian walkways.

- E. Landscaping areas immediately adjacent to front of building(s). See section 11.48.09.
- F. Location and general species of existing trees with a DBH of six inches or greater and all specimen trees, located within street buffer planting area(s), required side and rear buffers, parking lot, areas, and other open areas. Trees that developer will preserve and trees developer requests to remove shall be clearly indicated.
- G. Description of barrier protection that shall be used around preserved vegetation during construction. See section 11.48.05.
- H. Plant list including plants, trees, ornamental grasses, and shrubs with common name and botanical name, cultivar or variety (including distinctive features such as flower color), size of container or tree caliper. See section 11.48.11 for suggested landscape materials suitable for the Northwest Arkansas Planting Zone 6b.
- I. Planting and installation details for shrubs and trees to ensure conformance with all required standards of this chapter.
- J. Location, description and size of other proposed or existing landscape improvements such as sidewalks, walls, fences, screens, earth berms; storm water collection facilities such as rain gardens and detention ponds; sculptures, statues, fountains, street furniture, outdoor lighting, courtyards, or other paved areas.
- K. Location of existing and proposed physical features such as easements, streets, utilities, buildings, signs, and waterways.
- L. Location of trash/refuse bin(s), service bays, loading areas or docks, outdoor storage areas, mechanical equipment, walk-in coolers, and description of proposed required screening. See section 11.48.05(M)—(P).
- M. Type of irrigation system(s). Include details such as spray, drip, or other type of irrigation (such as well water), controller, backflow device, pressure reducer, waterline, and meter locations. Irrigation is mandatory in all B-1, B-2, M, O-1, O-2 districts and in any R-3 District where the multi-family development is or will exceed 12 units.
- N. These landscaping requirements are perpetual. Should landscaping features die, become storm damaged, be removed, etc., the property owner shall be responsible for replacing the landscaping features to bring the property into compliance with the requirements of this chapter.
- O. "Sight-triangle" at entryways clearly marked and proposed landscaping shown. See section 11.48.05.
- P. Parking and/or storage location of any service vehicles, portable machinery and equipment, large tools, construction equipment, food cooking devices, or other business-related equipment, and type of required screening that will shield them from public view.

(Ord. No. 2018-01, § 2)

### **11.48.05. General provisions.**

- A. Permits for building, paving, utilities, or construction shall not be issued until a landscape site plan including all required information is approved by the planning commission and/or planning office. The landscape site plan must be submitted with the site plan if required to have a large scale development plan approval, or at the time of applying for a building permit if not required to get LSD approval.
- B. All landscaping design plans shall be designed with public safety in mind. Landscaping shall not interfere with motorist or pedestrian visibility and safety.
- C. Landscaping shall not interfere with the general function, safety, or accessibility of any gas, electric, water, sewer, telephone, television cable, or other utility easement; fire hydrant, traffic sign, or traffic signal.

D. Preservation of existing vegetation:

1. Retain and incorporate as is practical, substantial stands of healthy, disease free vegetation and environmentally sensitive or significant natural areas such as woodlands, prairie, and wetlands, into the development site. This does not include invasive plants or plants that are potentially dangerous or harmful to humans or wildlife (for example, honey locust, kudzu, poison ivy, or sumac).
2. Credit for preservation of trees with a six-inch diameter or larger, or specimen trees, may result in reduction of number of required new trees and/or shrubs, after review and approval of developer's tree preservation proposal by planning commission.
3. Preserved trees and other preserved vegetation shall be shown on landscape plan. Before construction work begins, trees shall be protected by installation of chain-link fencing or some other type of protection barriers at drip-line of tree to prevent of tree root compaction in the critical root zone during building construction. Protections may be removed as necessary for final job completion. Other preserved vegetation shall be clearly marked with colored tape and flags.
4. Grading and removal of soil shall not occur within the drip line of canopy of tree(s) to be preserved.
5. Any type of construction debris or chemicals shall not be placed within 25 feet of preserved trees.

E. Trees, shrubs, and plants used in the landscape design shall be:

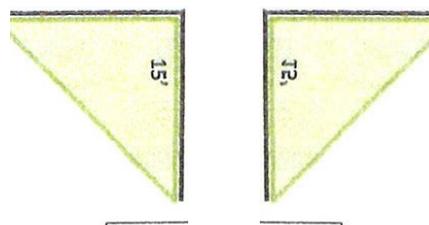
1. Appropriate to the soil, sunlight, and soil-moisture conditions in which they are planted thus resulting in low maintenance, high-quality design, with limited water requirements. Vegetation native to the area is encouraged.
2. High-quality, nursery-grown stock of healthy condition that meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986, or as may be amended in the future.
3. Planted in a manner that ensures availability of sufficient soil and water immediately after planting, and with sufficient nutrients, weed barrier, irrigation system, and mulching, to sustain healthy growth.
4. Be planted in protected areas where vehicular traffic shall not compact the soil in trees' root-spread area. A minimum of 25 square feet of permeable ground surface area per tree is recommended.
5. Trees, shrubs and other vegetation, at planting, shall meet the following specifications:

Vegetation Type	Minimum Diameter (when measured at height of 4.5 feet above ground level)	Minimum Height at Planting
Shade trees	2.5"	Variable (8'—10')
Ornamental trees	1.5"	Variable (6'—8')
Evergreen trees	—	Minimum of 6'
	<i>Container Size</i>	
Shrubs	3 gallon	2'—3' feet depending on variety
Ornamental grasses (perennial)	1 gallon	Variable

6. Where it is impossible or impractical to plant trees, developer may request approval from planning commission to substitute 3-gallon-size shrubs in a ratio of ten shrubs per one required shade tree.
7. Only non-invasive vegetation shall be planted. (See section 11.48.11 for list of banned trees, shrubs, and other invasive vegetation.)

- F. Groundcover requirements in specified landscape design areas:
1. *Living plant material.* Grass or evergreen groundcover plants shall make up a minimum of 50 percent of the groundcover for landscaped areas. However, a larger percentage of evergreen groundcover is encouraged.
  2. *Mulch.*
    - a. Commercially sold hardwood mulch shall be placed in all areas where there is no grass or evergreen groundcover.
    - b. Artificially colored mulch may not be used unless appealed to and approved by the planning commission.
    - c. The minimum depth of the wood mulch shall be three inches.
    - d. Owner shall be responsible for replacing or supplementing mulch annually to maintain a three-inch depth.
  3. *Prohibited groundcover.* Gravel base material white chat, lava rock, asphalt, concrete, brick pavers, cement pavers, or other specific paver varieties, aggregate pavement material or other pavement material shall not be used, unless approved by appeal to the planning commission. Invasive plants and invasive groundcover (listed in section 11.48.11) shall not be used.
  4. *Pavers.* Brick pavers, cement pavers, or other specific paver varieties shall not be used as groundcover but they may be used to create walkways.
- G. Massing, clustering, or grouping of required vegetative plant materials adds visual interest and is encouraged. Maximum distance between massed groups is 25 feet. Groupings must be integrated into a planting bed or in a curbed area for easier maintenance and tidier appearance.
- H. Planting in rain gardens or other innovative ways to control ground run-off is encouraged. The planning commission may make allowances on plant types and number if landscaping includes these types of plantings.
- I. Any development subject to the requirements for submitting large scale development plans shall include plans for installing irrigation devices in all areas required to have landscaping.
- J. Required landscape areas shall not include artificial trees, shrubs, plants, or any synthetic carpeting designed to mimic grass unless specifically approved by the planning commission.
- K. Street and highway rights-of-way shall be restored and maintained with turf grass or other vegetative ground cover.
- L. Sight-triangle requirements for business entryway: Sight-triangle shall measure 15 feet along the entryway and 15 feet along the public street or highway.

Vegetation planted within sight-triangle shall be a maximum height of 30 inches to 36 inches at maturity. Trees may be included if limbs are pruned up to provide clear view of traffic for pedestrians and motorists.



- M. Detention pond and water quality pond landscaping:
1. Perimeter of pond shall be landscaped with low, dense vegetation that hinders or prevents access into the detention pond area by small children, while maintaining a clear view of pond.
  2. Pond landscaping shall be maintained to prevent clogged drains.
- N. Trash/refuse/garbage storage areas screening:
1. Shall be located behind the building unless planning commission approves another location.
  2. Shall be located a minimum of 50 feet from any residential or multi-family zoned property.
  3. Shall be screened five feet high on all sides by walls constructed of materials matching the primary building, masonry or by wood fencing, and shall have a secure access gate.
  4. Shall be landscaped with some type of vegetation planted in front of sides seen from street, highway, or adjacent residential dwellings. Vegetative screening shall be equally effective in all seasons of the year.
  5. All types of chain-link fence screening and plain, unembellished concrete block walls shall be prohibited.
  6. Shall be located on a reinforced concrete slab a minimum of six inches thick and sloped to drain.
- O. Mechanical equipment screening.
1. All roof, ground, and wall-mounted mechanical equipment such as air handling equipment, compressors, ductwork, transformers and elevator equipment located within 150 feet of a street or highway right-of-way, residential housing, or public park areas, shall be screened from view or positioned so that they are not highly visible.
  2. Wall- or ground-mounted equipment shall be screened by any combination of: vegetative screening, brick, stone, reinforced concrete, stucco, or other similar masonry materials; or other materials that match the primary building and allow proper ventilation and service access.
- P. Loading dock screening when located adjacent to all residential, business, office, or manufacturing zoning districts, or can be viewed from a street or highway:
1. Shall be located at the side (toward the back of structure) or rear of building.
  2. Shall not be located closer than 25 feet to any residential zone, unless loading dock area is wholly enclosed within a building.
  3. Shall be screened on all visible sides either by a wall with exterior finish similar to primary structure, or with vegetative screening that will be a minimum of seven feet at maturity, and dense enough such as evergreens to completely conceal the loading facility.
- Q. Walk-in cooler screening:
1. Shall be structurally integrated into the primary structure by screening walls with exterior finish similar to primary structure.
  2. Vegetative screening with minimum height at maturity of seven feet shall be planted in front of screening walls that are visible from residential areas and roadways.
  3. Alternative, innovative screening combinations may be considered and approved by the planning commission.
- R. *Protection of public safety and welfare.* Whenever deemed necessary to protect the aesthetic value of property being developed, or adjoining or nearby properties, and to otherwise promote public health, safety or welfare, the planning commission shall specify additional conditions.

(Ord. No. 2018-01, § 2)

#### **11.48.06. Street frontage buffer landscaping in B-1, B-2, R-2, R-3, O-1 and O-2 zones.**

- A. *Purpose.* To enhance the overall appearance of the city; to provide a landscaped transition from the public right-of-way to private property buildings and parking lots; to provide a visual buffer from projecting headlights that might interfere with the vision of passing motorists and pedestrians; to improve the appearance of parking lots located adjacent to a public right-of-way, and to encourage preservation of existing trees and other existing vegetation.
- B. *General provisions.*
1. With approval of planning commission, several street frontage buffer options may be combined to meet the particular site constraints of the development.
  2. Existing native trees of six inches DBH or larger, or specimen trees, shall be preserved anywhere within the street frontage buffer area unless preservation creates traffic hazards or interferes with required utilities. If existing native trees can be shown to be less than desirable due to shape, form, damage, or a species not preferred the planning commission can grant approval to remove them.
  3. Preserved existing trees of six inches DBH or larger, or specimen trees, shall be substituted one preserved tree for two new trees in meeting the street frontage buffer tree requirements.
  4. A corner lot with two street/highway rights-of-way must be planted using the street frontage buffer options. The remaining side and rear shall use the landscaped perimeter landscape requirements.
  5. Within each 15 feet depth and 25 linear feet of street frontage, the required minimum number of trees and shrubs may be spaced separately, or grouped for most attractive appearance.
  6. All landscaped areas shall be integrated into a curbed planting bed to ease maintenance and must utilize weed barrier and vegetative groundcover and wood mulch applied according to the standards in section 11.48.05(F). Gravel and other banned groundcover shall not be used.
  7. Vegetation planted within five feet of the right-of-way shall have maximum height of 30 inches to 36 inches at maturity. At entryways all sight-triangle requirements shall apply. See section 11.48.05(L), sight-triangle requirements for business entryway.
  8. Designated parking and loading areas shall be used exclusively for the parking and loading of vehicles and shall not be used for the sale, lease, display, repair, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, earth-moving equipment, farm equipment, cooking equipment, or other business-related items.
  9. Where greater depth than 15-foot minimum is used, number of required vegetative items shall be increased by two per each five-foot increase in depth. Developer may choose from any combination of shade trees, ornamental trees, conifer trees, and/or shrubs for each additional five-foot buffer depth. With greater depth, adjustments to planting location requirements may be made upon review and approval of the planning commission.
  10. Chain link fencing and any other type of wire fencing shall not be allowed.
- C. Fifteen-foot street frontage buffer minimum landscaping requirements per 25 linear feet:
1. One shade tree with 2.5 inches diameter at 4.5 feet above the ground, or one ornamental tree with 1.5 inches diameter at 4.5 feet above ground, or one conifer (evergreen) tree a minimum of six feet tall at planting.
  2. Perennial ornamental grasses, perennial plants and other vegetation may be added at landscaper's discretion.
  3. Mulch.

(Ord. No. 2018-01, § 2)

**11.48.07. Landscaped perimeter buffer in Business (B-1), (B-2), Multi-Family-1 (R-3), Office (O-1), (O-2), and Manufacturing (M) zoning districts.**

- A. *Purpose.* Perimeter landscaping, a peripheral planting strip along the side and rear lot lines that separates land uses or properties, prevents two adjacent commercial lots from becoming one large expanse of pavement; provides an aesthetically attractive separation between properties in densely developed areas; and protects residential dwellings by providing noise abatement, preventing glare from headlights and property lighting, and providing privacy; and enhances the general appearance of all properties.
- B. *General requirements.*
1. The landscaping plan for all proposed development shall show perimeter landscaping, in addition to landscaped street frontage buffer and interior parking lot landscaping that is required.
  2. Preservation of existing trees or other native vegetation is strongly encouraged and will count toward total number of required trees.
  3. Minimum width. A ten-foot landscaped perimeter buffer is required along the side lot lines of a development. Exception: in R-3 Zones where two units or less are being constructed the buffer may be reduced to the width of the required setback, five feet.
  4. Required extension of side perimeter buffer shall extend from street frontage back to front edge of building unless property is adjacent to residential housing in which case the perimeter buffer shall extend the length of the property. See section 11.48.07(E) below for specific requirements.
  5. No back perimeter buffer is required unless adjacent to residential housing. See section 11.48.07(E) below for specific requirements.
- C. *Landscaped perimeter buffer minimum requirements, per 25 linear feet:*
1. One shade tree 2.5 inches diameter (minimum) at 4.5 feet above the ground or one ornamental tree 1.5 inches diameter (minimum) at 4.5 feet above the ground or one conifer (evergreen) tree a minimum of six feet tall at planting.
  2. *Groundcover.* New plantings in perimeter areas shall be mulched. Preserved existing vegetation does not require mulch. (See section 11.48.05(F), groundcover requirements.)
  3. *Massing/grouping of plantings.* Massing, clustering, or grouping of alternating plant materials with a combination of trees and shrubs provides visual interest and is encouraged. The maximum distance between massed groups is 25 feet.
- D. *Vehicular access.* The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between adjacent lots and allowance may be made as necessary upon approval of planning commission.
- E. *Special side and rear perimeter screening requirements for business, multi-family, and manufacturing development adjacent to residential or multi-family housing.* The developer shall provide complete screening by means of a physical barrier and landscaping.
1. The effective height of the physical barrier shall be a minimum of six feet in height. Such a barrier shall consist of wood or masonry fencing, walls, and/or berms, and shall include required landscaping plant material.
  2. Vegetation placed as a buffer between residential development shall include sight and noise buffering. Where a fence is placed as a screen in areas bordering residential development, a vegetative barrier shall also be installed to provide noise abatement. It shall consist of as many trees and shrubs as necessary, and of suitable size and density to provide 60 percent coverage of the physical barrier within two years of planting.

3. *Tree preservation.* Existing shade trees with DBH of six inches or greater and/or specimen trees may be included as part of the vegetative screening requirement in a ratio of one preserved tree to two new trees.

(Ord. No. 2018-01, § 2)

**11.48.08. Parking lot landscaping in Business (B-1), (B-2), Multi-Family (R-2), (R-3), Office (O-1), (O-2), and Manufacturing (M) zoning districts.**

- A. *Purpose.* To improve the appearance of parking lot and entire property with attractive landscaping; to create a safe parking area for pedestrians and motorists; where feasible, to preserve existing trees, or plant new trees to provide shade; to provide buffer from headlight glare and noise between adjacent properties, and to ensure privacy of residents living adjacent to parking areas.
- B. *Applicability.* Parking lot landscaping requirements shall apply to any development or addition requiring a building permit from the city in Business (B-1), (B-2), Multi-Family-1 (R-2), (R-2), Office (O-1), (O-2), and Manufacturing (M) zoning districts.
- C. *General provisions.*
  1. Landscaping shall not block motorist or pedestrian view.
  2. The landscape design of parking areas may vary based on the qualities and layout restrictions of the property to be developed.
  3. Landscaping may be added to the inaccessible, unusable corners of parking lots. Existing trees may be preserved in these areas.
  4. Minimum size of shade trees and ornamental trees at planting shall be:
    - a. Shade tree: 2.5 inches diameter at 4.5 feet above ground.
    - b. Ornamental tree: 1.5 inches diameter at 4.5 feet above ground.
  5. Parking islands shall be incorporated into new parking lots or expanded existing parking lots in any zone in which there will be 60 spaces, or more, or in parking lots with fewer than 60 spaces, when the planning commission deems them necessary for improved control and safety of pedestrians and motorists.
  6. Each island shall be landscaped with a minimum of one hardy shade tree or ornamental tree, or low-maintenance shrubs unless waived by planning commission due to safety purposes.
  7. Mulch, turf grass and/or evergreen groundcover shall be used in each island.
  8. When planning commission waives tree/shrub requirement due to safety considerations, parking island shall be landscaped with turf grass, low ornamental grass, groundcover, mulch, or a combination of these.
- D. *Special screening standards for parking lot adjacent to residential and multi-family housing zones.* Development adjacent to all residential zones, shall meet increased landscaping standards to minimize noise and light glare and to ensure privacy. The location and construction of such screening shall be approved by the planning commission.
  1. Physical barrier to provide full screening shall be a minimum of six feet in height and may consist of wood or masonry fencing, rock or brick walls, berms, or a combination of these methods.
  2. Plant material shall be placed in front of the barrier to provide noise abatement and increase aesthetic quality of parking lot.
  3. Trees and shrubs planted shall provide 60 percent coverage of the physical barrier within two years.
  4. At least one-half of the trees and shrubs shall be of an evergreen type that maintain leaves year round.

5. *Tree preservation.* Existing healthy shade or specimen trees with DBH of six inches or greater shall be included as a portion of the landscape screening.

(Ord. No. 2018-01, § 2)

#### **11.48.09. Landscaping requirements adjacent to buildings.**

- A. *Purpose.* To enhance the overall appearance of the front of building(s) within a development.
- B. *Landscaping requirements.* Plant shrubs, perennial ornamental grasses, perennial plants, or other vegetation in curbed planting beds immediately adjacent to building or buildings, spanning a minimum of one-third of building(s) frontage. Additional plantings on sides of building(s) are at discretion of builder or owner.

(Ord. No. 2018-01, § 2)

#### **11.48.10. Landscaping installation, maintenance, and replacement of landscaping materials.**

Standards have been established for installation of all plant materials within the city. These requirements must be followed in order to receive approval of the site work and final occupancy or approval of the development. The planning commission or a representative of the city has the authority to deny the issuance of a final occupancy permit until landscaping is installed according to the requirements of this chapter and satisfaction of the site inspector. All planting and landscaping requirements shall follow the developed land in perpetuity.

- A. *Installation.* All landscaping shall be installed in accordance with standards and requirements of this chapter. Permits for building, paving, utilities or construction shall not be issued until a landscape site plan including all required information is submitted and approved by the planning commission. The landscape site plan must be submitted with the site plan.
- B. *Delays in planting.* When construction has been completed but it would be impractical to plant trees, shrubs, or turf grass or other landscaping material due to weather conditions, upon approval of the city, developer shall be given additional time to complete all required landscaping; further, a temporary occupancy permit may be issued by the building inspector. The developer or builder must make every effort to finish the project within the time frame for completion that both parties have agreed to.
- C. *Enforcement.*
  1. Final occupancy permits and/or final plats will be withheld for those who fail to complete landscaping requirements.
  2. Landscaping elements are required to be maintained perpetually. In the event that landscaping elements die, are damaged, removed, or otherwise no longer exist, the city may notify the property owner of the deficiency and require the owner to repair or replace the elements to bring the property into compliance.
  3. In the event that ten percent or more of any required elements die, are removed, or otherwise no longer exist; and the property owner has failed to remedy the situation after having received written notice, via certified mail, the property owner shall be guilty of a violation and subject to criminal penalties.
  4. Persons found guilty of violations of this chapter, shall be required to bring their property into compliance and pay a minimum fine of \$100.00, or \$10.00 per day of violation for each day the property remains non-compliant.

(Ord. No. 2018-01, § 2)

**11.48.11. Suggested landscaping materials.**

PLANT	BOTANICAL NAME	SIZE	FLOWER	LEAF	TEXTURE	FORM
<i>Evergreen Shrubs:</i>						
Abelia	Abelia X grandiflora 'Edward Goucher'	5'H X 6'W	Pink	GR/PP		Rounded
Aucuba	Aucuba japonica	6'H 5'W		GR/YW	Bold	Rounded
Azalea	Azalea japonica 'Mother's Day'	4'H X 5'W	Rose			Rounded
Greenmound Boxwood	Buxus sempervirens 'Green Mound'	3'H X 3'W			Fine	Rounded
Wintergem Boxwood	Buxus microphylla 'Wintergem'	4'H X 5'W			Fine	Rounded
Wintergreen Boxwood	Buxus sinica 'Insulari'	4'H X 5'W			Fine	Rounded
Cherry Laurel	Prunus laurocerasus 'Otto Luyken'	4'H X 7'W	White			Rounded
Dwarf Burford Holly	Ilex cornuta 'Dwarf Burford'	6'H X 6'W			Bold	Rounded
Helleri Holly	Ilex crenata 'Helleri'	3'H X 4'W			Fine	Rounded
Nellie Stevens Holly	Ilex X 'Nellie R. Stevens'	15'H X 10'W	Red Berry			Rounded
Sky Pencil Holly	Ilex crenata 'Sky Pencil'	10'H X 3'W			Fine	Upright
Bordeaux Yaupon Holly	Ilex vomitoria 'Condeaux'	2'H X 5'W			Fine	Rounded
Dwarf Yaupon Holly	Ilex vomitoria 'Nana'	8'H X 5'W			Fine	Rounded
Winterberry Holly	Ilex verticillata 'Red Sprite'	5'H X 5'W	Red Berry			
Creeping Juniper	Juniperus horizontalis 'Blue Rug'	1'H X 6'W		BL	Fine	Flat
Creeping Juniper	'Plumosa compacta'	1'H X 6'W		PP	Fine	
Creeping Juniper	'Blue Star'	1'H X 6'W		BL	Fine	Flat
Creeping Juniper	'Blue Chip'	1'H X 6'W		BL	Fine	Flat
Gold Pfitzer Juniper	Juniperus chinensis 'Pfitzeriana aurea'	4'H X 6'W		GR/YW	Fine	
Loropetalum	Loropetalum chinense 'Purple Diamond'	4'H X 5'W	Fuschia	PP		Rounded
Mugo Pine	Pinus mugo 'Compacta'	3'H X 4'W			Fine	
Dwarf Nandina	Nandina domestica 'Firepower'	2'H X 3'W		GR/RD	Fine	Rounded

Nandina (Compact)	Nandina domestica 'Compacta'	5'H X 3'W	Red Berry	GR/PP	Fine	Rounded
Dwarf Alberta Spruce	Picea glauca 'Conica'	8'H X 5'W			Fine	Pyramidal
Leatherleaf Viburnum	Viburnum rhytidophyllum	10'H X 10'W	White	GR/PP	Bold	Rounded
Red Yucca	Hesperaloe parviflora	6'H X 4'W	Salmon		Fine	Spikey
Varigated Yucca	Yucca filamentosa 'Color Guard'	4'H X 4'W	White	GR/YW	Fine	Spikey
<i>Deciduous Shrubs:</i>						
Dwarf Burning Bush	Euonymus alatus compactus	8'H X 10'W		GR/RD	Medium	Rounded
Butterfly Bush	Buddleia davidii nanhoesis 'Monum'	5'H X 5'W	Purple		Medium	
Cranberry Cotoneaster	Cotoneaster apiculatus	3'H X 7'W	White	GR/RD	Fine	Flat
American Cranberry	Viburnum trilobum 'Bailey's Compact'	6'H X 6'W	White	GR/RD	Fine	
Dwarf Crapemyrtle	Lagerstroemica indica 'Maned'	4'H X 4'W	Red		Medium	
Dynamite Crapemyrtle	Lagerstroemica indica 'Whit II'	20'H X 15'W	Red		Medium	Upright
Weeping Crapemyrtle	Lagerstroemica indica X faueri 'Acoma'	7'H X 7'W	White			
Red-Dosier Dogwood	Camus sericia 'Kelseyi'	2.5'H X 2.5'W	Red Stem	GR/RD	Medium	Rounded
Black Lace Elderberry	Sambucus nigra 'Eva'	8'H X 8'W	Pink	PP	Fine	
Dwarf Forsythia	Forsythia 'Arnold Dwarf'	3'H X 7'W	Yellow		Medium	Rounded
Dwarf Oakleaf Hydrangea	Hydrangia quercifolia 'Sikes Dwarf'	4'H X 4'W	White	GR/PP	Bold	Rounded
Dwarf Lilac	Syringa meyeri 'Palibin'	5'H X 7'W	Purple		Medium	Upright
Japanese Maple	Acer palmatum dissectum 'Red Dragon'	5'H X 5'W		RD	Fine	Upright
Ninebark	Physocarpus opulifolius 'Monlo'	10'H X 10'W	Pink	GR/PP	Bold	
Flowering Quince	Chaenomeles japonica	4'H X 5'W	Salmon		Medium	
Carpet Rose	Rosa X 'Noare'	2.5'H X 2.5'W	Red		Medium	Flat
Shrub Rose	Rosa X 'Radrazz'	4'H X 4'W	Red		Medium	Rounded
Rose of Sharon	Hibiscus syriacus	8'H X 6'W	Purple	YW	Bold	Upright
Anthony Waterer Spirea	Spiraea X bumalda 'Anthony Waterer'	5'H X 5'W	Pink		Medium	Rounded

Vanhoutte's Spirea	Spiraea X vanhouttei	8'H X 12'W	White		Fine	Rounded
Doublefile Viburnum	Viburnum plicatum tomen. 'Mariesii'	12'H X 15'W	White	GR/PP	Bold	Upright
Winter Jasmine	Jasminum nudiflorum	4'H X 7'W	Yellow		Fine	Weeping
<i>Perennial Grasses:</i>						
Blue Dune Lyme Grass	Elymus arenarius 'Blue Dune'	3'H	Blue	BL		Spikey
Little Bunny Grass	Pennisetum alopecuroides 'Little Bunny'	1'H X 'W	White		Fine	Upright
Mexican Feather Grass	Nassella tenuissima	2'H X 2.5'W	Yellow	YW	Fine	Soft
Feather Reed Grass	Calamagrostis X acutiflora 'Karl Foerster'	6'H X 2'W	Yellow			Spikey
Dwarf Fountain Grass	Pennisetum alopecurioides 'Hameln'	3'H X 2'W	White		Fine	Upright
Golden Liriope	Liriope spicata 'Silver Dragon'	1'H X 1.5'W	Purple	GR/YW		Weeping Dwarf
Dwarf Maiden Grass	Miscanthus sinensis 'Little Kitten'	3'H X 1.5'W	White		Fine	Upright
Maiden Grass	Miscanthus sinensis 'Gracillimus'	8'H X 5'W	White		Fine	Upright
Dwf var. Maiden Grass	Miscanthus sinensis 'Dixieland'	3'H X 4'W	White		Fine	Upright
Mondo Grass	Ophiopogon japonicas 'Nanus'	5'H	Black		Fine	Short
Monkey Grass	Liriope muscari 'Big Blue'	1.5'H X 1.5'W	Purple			Weeping
Muhley Grass	Muhlenbergia lindheimeri 'Lenca'	2'H X 4'W	Pink		Fine	Spikey
Dwarf Pampas Grass	Cortaderia selloana 'Pumila"	10'H X 6'W	White			Spikey
<i>Perennials:</i>						
Black Knight Canna	Canna X generalis 'Black Knight'	6'H X 2'W	Red	GR/PP	Bold	Upright
Purple Coneflower	Echinacea purpurea 'Magnus'	3'H X 2'W	Salmon			Upright
Moonbeam Coreopsis	Coreopsis verticillata 'Moonbeam'	1.5'H X 2'W	Yellow		Fine	Loose
Daffidil	Narcissus X 'Ice Follies'		White			
Shasta Daisy	Chrysanthemum X superbum		White			
Gaura	Gaura lindheimeri 'Geyser Pink'	3'H X 3'W	Salmon		Fine	Loose
Hardy Hibiscus	Hibiscus X 'Fireball'	5'H X 3'W	Red			

Iris	Iris spp.	3'H X 2'W	Purple		Fine	Upright
Lambs Ear	Stachy byzantina 'Silver Carpet'	1'H X 3'W		SV	Bold	Spreading
Stella Lily	Hemerocallis X 'Stella de Oro'	2'H X 2'W	Orange			
Penstemon	Penstemon 'Black Towers'	30"H X 30"W	Salmon	GR/PP		Upright
Husker Red Penstemon	Penstemon digitalis 'Husker Red'	3'H X 'W	White	PP		Upright
Creeping Phlox	Phlox subulata 'Emerald Blue'	6"H X 3'W	Blue		Fine	Flat
Garden Phlox	Phlox paniculata 'Red Riding Hood'	3'H X 2'W	Red			Upright
Joe Pye Weed	Eupatorium spp.	40"H X 3'W	Blue	BL	Bold	Spikey
Dwarf Russian Sage	Perovskia atriplicifolia 'Little Spire'	2'H X 2'W	Purple	SV	Fine	Loose
Autumn Joy Sedum	Sedum X 'Autumn Joy'	24"H X 24"W	Salmon	GR/RD	Bold	Rounded
Speedwell	Veronica spicata 'Blue Carpet'		Purple			
Black Eyed Susan	Rudbeckia fulgida var. sullivantii 'Goldsturm'	2'H X 18"W	Gold			Upright
<i>Evergreen Trees:</i>						
Altas Blue Cedar	Cedrus atlantica	40'H X 25'W		BL	Fine	Pyramidal
Foster Holly	Ilex X attenuata 'Fosteri #2'	25'H X 12'W	Red Berry		Fine	Pyramidal
American Holly	Ilex opaca		Red Berry			Pyramidal
Moonglow Juniper	Juniperus scopulorum 'Moonglow'	20'H X 8'W			Fine	Pyramidal
Skyrocket Juniper	Juniperus scopulorum 'Skyrocket'	15'H X 2'W			Fine	Pyramidal
Spartan Juniper	Juniperus chinensis 'Spartan'	15'H X 5'W			Fine	Pyramidal
Southern Magnolia	Magnolia grandiflora 'Bracken's Brown Beauty'	50'H X 30'W	White	BR	Bold	Pyramidal
Austrian Pine	Pinus nigra	60'H X 25'W			Fine	Pyramidal
Japanese Black Pine	Pinus thunbergii	80'H X 40'W			Fine	Pyramidal
Loblolly Pine	Pinus taeda	90'H X 50'W			Fine	

White Pine	Pinus strobus	65'H X 25'W			Fine	Pyramidal
Colorado Blue Spruce	Picea pungens	65'H X 25'W		BL	Fine	Pyramidal
Columnar Norway Spruce	Picea abies 'Cupressina'	30'H X 6'W			Fine	Pyramidal
<i>Deciduous Trees:</i>						
River Birch	Betula nigra 'Cully'	20'H X 20'W				
Red Buckeye	Aesculus pavia	15'H X 5'W	Red			
Chaste Tree	Vitex agnus-castus	25'H X 25'W	Purple		Fine	
Kwanzan Cherry	Prunus serrulata 'Kwanzan'	25'H X 20'W	Pink	GR/RD		Rounded
Yoshino Cherry	Prunus X yedoensis 'Akebono'	25'H X 25'W	Pink	GR/RD		Rounded
Prairiefire Crabapple	Malus X 'Prairifire'	20'H X 20'W	Rose	PP		Rounded
Dwarf Bald Cypress	Taxodium distichum 'Skyward'	20'H X 6'W			Fine	Pyramidal
Carnelian Cherry	Cornus mas 'Golden Glory'	20'H X 20'W	Yellow	GR/RD		Rounded
Flowering Dogwood	Cornus florida 'Cloud Nine'	25'H X 25'W	White	GR/RD		Rounded
Red Flowering Dogwood Cornus florida 'Cherokee Chief'	Cornus florida 'Cherokee Chief'	25'H X 25'W	Red	GR/RD		Rounded
Kousa Dogwood	Cornus kousa	20'H X 20'W	White	GR/RD		
Allee Elm	Ulmus parvifolia 'Elmer II'	50'H X 30'W				Rounded
Homestead Elm	Ulmus 'Homestead'	60'H X 35'W				Rounded
Lacebark Elm	Ulmus parvifolia	50'H X 30'W				Rounded
Chinese Fringe Tree	Chionanthus retusus	20'H X 25'W	White	GR/RD		
Ginkgo (male only)	Ginkgo biloba	50'H X 30'W		GR/YW	Fine	Pyramidal
Thornless Honeylocust	Gleditsia triacanthos inermis 'Suncole'	35'H X 30'W	White		Fine	
Hornbeam	Carpinus betulus 'Fastigiata'	45'H X 35'W		GR/YW		
Horse Chestnut	Aesculus X arnoldiana 'Autumn Splendor'	25'H X 25'W	Red	GR/RD		
Littleleaf Linden	Tilia cordata 'Sashazum'	50'H X 40'W				
Saucer Magnolia	Magnolia X 'Ann'	15'H X 12'W	Purple		Bold	Rounded
Norway Maple	Acer plantanoides 'Crimson King'	35'H X 25'W		GR/RD		Rounded

Red Maple	Acer rubrum 'October Glory'	50'H X 40'W		GR/RD		Rounded
Sugar Maple	Acer saccharum 'Green Mountain'	40'H X 25'W		GR/RD		Rounded
Amur Maple	Acer ginnala	20'H X 15'W		GR/RD		Rounded
Bloodgood Jap. Maple	Acer palmatum 'Bloodgood'	20'H X 15'W		RD		Rounded
Burr Oak	Quercus macrocarpa	80'H X 80'W				
Scarlet Oak	Quercus coccinea	75'H X 50'W		GR/RD		
Sawtooth Oak	Quercus acutissima	45'H X 40'W			Bold	
White Oak	Quercus alba	100'H X 60'W				
Red Oak	Quercus rubra	80'H X 40'W				
Willow Oak	Quercus phellos	60'H X 40'W			Fine	
Shumard Oak	Quercus shumardii	60'H X 50'W		GR/RD	Bold	
Water Oak	Quercus nigra	80'H X 60'W		GR/RD		
Cleveland Select Pear	Pyrus calleryana 'Cleveland Select'	35'H X 15'W	White	GR/RD		Pyramidal
Pistachio	Pistacia chinensis	35'H X 35'W		GR/RD		
Purpleleaf Plum	Prunus cerasifera 'Thundercloud'	20'H X 20'W	Pink	PP		Rounded
Golden Raintree	Koelreuteria paniculata	30'H X 35'W	Yellow			
Eastern Redbud	Cercis canadensis	30'H X 35'W	Purple		Bold	
Pansy Redbud	Cercis canadensis 'Forest Pansy'	20'H X 25'W	Purple	PP	Bold	
Serviceberry	Amelanchier X grandiflora 'Autumn Brilliance'	25'H X 25'W	White	GR/RD		
Smoke Tree	Cotinus coggyria 'Royal Purple'	15'H X 12'W	Pink	PP		Rounded
Japanese Snowbell	Styrax japonicus	30'H X 30'W	White	GR/RD		
Seedless Sweetgum	Liquidambar styraciflua 'Ward'	50'H X 30'W		GR/RD		Pyramidal
Tupelo	Nyssa Sylvatica	50'H X 30'W		GR/RD		

PLANT	BOTANICAL NAME	ISSUES
<i>Banned Trees:</i>		
Bradford Pear	Pyrus calleryana 'Bradford'	(Easily storm damaged—Use Cleveland Select instead)
Ginkgo (female only)	Ginkgo biloba	(Odorous fruit—Use male)

Mimosa	Albizia julibrissin	(Invasive)
Pin Oak	Quercus palustris	(Weeping limbs pose hazard—Use other Oak species)
Paper Birch	Betula papyrifera	(Not hardy—Use River Birch)
Silver Maple	Acer saccharinum	(Fast growing, easily storm damaged—Use Red Maple)
Sweetgum	Uiquidambar styraciflua	(Fruit poses hazard—Use fruitless cultivar)
Tree of Heaven	Ailanthus altissima	(Invasive)
Willow species	Salix spp.	(Fast growing, easily storm damaged)
Honey Locust	Robinia pseudoacacia	(Thorns—Use improved cultivar or thornless Black Locust)
<i>Banned Shrubs:</i>		
Amur Privet	Ugustrum amurense	(Invasive—Use Boxwood or Japanese Holly)
Autumn Olive	Eleagnus umbellata	(Invasive)
Chinaberry	Melia azedarach	(Invasive/Poisonous)
Chinese Holly	Ilex cornuta	(Thorns—Use thornless cultivar)
Photinia	Photina serratifolia	(Susceptible to fungus)
Chinese Privet	Ligustrum sinense	(Invasive)
Chinese Tallow Tree	Sapium sebiferum	(Invasive/Poisonous)
Common Privet	Ugustrum vulgare	(Invasive—Use Boxwood or Japanese Holly)
Glossy Privet	Ugustrum lucidum	(Invasive—Use Boxwood or Japanese Holly)
<i>Other Banned Plants:</i>		
Amur Honeysuckle	Lonicera maackii	(Invasive)
Bamboo	Bambuseae	(Invasive)
Castorbean	Ricinus communis	(Poisonous)
English Ivy	Hedera helix	(Invasive—Use Vinca)
Japanese Honeysuckle	Lonicera japonica	(Invasive—Use sterile variety or Purple Honeysuckle)
Lespedeza	Imperatica cylindrical	(Invasive)
Moonflower	Datura inoxia	(Poisonous)

Morning Glory	Ipomoea	(Invasive)
Multiflora Rose	Rosa multiflora	(Invasive/Thorns—Use Shrub or Carpet Rose)
Scottish Thistle	Onopordum acanthium	(Invasive/Thorns)
Any plant listed as invasive or noxious by the USDA for Arkansas		

(Ord. No. 2018-01, § 2)

## **CHAPTER 11.52 STORMWATER POLLUTION CONTROL**

### **11.52.01. Title.**

This chapter shall be known as the "Stormwater Pollution Control Ordinance."

(Ord. No. 2018-01, § 2)

### **11.52.02. Adoption of code.**

There is hereby adopted by the city council, by reference thereto, the provisions set forth in the Stormwater Pollution Prevention, Grading and Erosion Control Manual on file in the office of the city clerk as of June 16, 2014.

(Ord. No. 2018-01, § 2)

### **11.52.03. Designated official.**

Whenever reference is made in the Stormwater Pollution Prevention, Grading and Erosion Control Manual to the duties of an official, such official for the city shall be the city building inspector.

(Ord. No. 2018-01, § 2)

### **11.52.04. Permits required.**

- A. All activity within the city limits involving grading, filling or excavation shall require a permit from the city prior to beginning work. A separate permit shall be required for each site, and may cover both excavation and fill work.
- B. The following activities are exempt from the requirement for a permit:
  - 1. Excavations or grading in an isolated self-contained area of one-half acre or less where there is no danger apparent to private or public property and will not change established drainage patterns.
  - 2. An excavation below finished ground, such as for footings, basements, retaining walls, or other structural excavations that are covered under a valid building or fence permit. This shall not exempt any fill that is the result of excavation nor exempt any excavation having an unsupported height greater than four feet after completion of the structure.
  - 3. Cemetery graves.
  - 4. Refuse disposal sites controlled by other regulations.
  - 5. Excavations for wells, tunnels, or utilities.
  - 6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, where otherwise established by lawful practices and regulations. Provided further that all such activities shall meet all local, state, and federal guidelines and laws in existence.
  - 7. Exploratory excavations under the direction of soil engineers, geologists, or scientists.
  - 8. An excavation which:
    - a. Is less than two feet in depth, or
    - b. Which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to vertical.
  - 9. Earth work performed under an approved building permit, relevant to the construction of the building only.

10. Utility cuts performed by or on behalf of a public utility.
  11. Work performed as part of an approved subdivision development according to the subdivision regulations as may now or hereafter be enacted by the city council.
  12. Street and drainage work performed within a public right-of-way by or on behalf of a public agency.
  13. This requirement of the Code may be waived by the mayor or his designee in time of natural disasters or other such emergencies.
- C. If an applicant can demonstrate that extraordinary hardships or practical difficulties will result from strict compliance with these regulations or the purpose of these regulations, and proposes alternative measures or proposals, the designated official shall review the proposed alternatives and forward them, along with a recommendation to the board of adjustment for a decision. Such a request must contain the conditions upon which the request for variance is based unique to the property because of its particular physical surroundings, shape or topographical conditions; and demonstration that the granting of a variance will not be detrimental to the public safety, health and welfare; or be injurious to other property.

(Ord. No. 2018-01, § 2)

### **11.52.05. Definitions.**

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

*Approval by city, submitted for approval or similar terms* shall refer solely to the action of the city in reviewing an excavation and grading plan submitted by a developer for the purpose of determining whether the proposal conforms with the requirements of this Code. Such review and approval shall not be construed to indicate that the city has engineered the project, has independently examined or reviewed the engineering design of the project, that the city has thoroughly inspected construction, that purchasers or users should rely on the city's action as indicating the project is properly designed or constructed, nor to indicate any other level of review, inspection or supervision in excess or in addition to review of the project to determine that it meets the minimum requirements of this Code. All acts of approval shall be accomplished only by the employees of the city expressly authorized by the board of directors or city manager to accomplish such tasks of approval. Further, in approving the proposed project as meeting the minimum requirements of this Code, the city shall rely on the statements and representations made in the request for application, design, plans and specifications.

*As-graded* means the surface conditions extent on completion of grading.

*ASTM* means American Society for Testing and Materials.

*Bedrock* means in-place solid rock.

*Bench* means a relatively level stop excavated into earth material on which fill is to be placed.

*Board of adjustments and appeals.* Any reference to a board of adjustments and appeals shall mean such appeals board as may now or hereafter exist and be designated by the city council to serve in that capacity for the purposes of this code.

*Borrow* means earth material acquired from an off-site location for use in grading on a site.

*Certification* means a written engineering or geological opinion concerning the progress and completion of the work.

*City.* The words "the city" or "this city" shall be construed as if the words "of Prairie Grove" follow it and shall extend to and include its several officers, agents and employees.

*Civil engineer* means a professional engineer registered in the state to practice in the field of civil works.

*Compaction* means the densification of a fill by mechanical means.

*Comprehensive plan* means the officially adopted guide to the orderly, coordinated development of the community, i.e., the city subdivision ordinance.

*Clearing* means the removal of natural vegetation including trees, bushes, vines, weeds, grass, etc.

*Cut* means the excavation or removal of earth material resulting in a surface elevation lower than the existing or original surface.

*Developer* means any person, firm, partnership, corporation, utility or other entity planning, constructing, altering, or reconstructing any excavation or grading work within or pertaining to any property within the city limits.

*Disturbed area* means surface areas that the natural vegetation has been destroyed or the surface elevation has been changed due to cutting or filling activities.

*Earth material* means any rock, natural soil or fill and/or any combination thereof.

*Easement* means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

*Engineer* means a professional engineer registered to practice in the State of Arkansas.

*Engineering geologist* means a geologist experienced and knowledgeable in engineering geology.

*Erosion* means the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

*Excavation* means the mechanical removal of earth material.

*Existing grade* means the grade prior to grading.

*Fill* means the placement of earth material resulting in a surface elevation higher than the existing or original surface.

*Finish grade* means the final grade of the site, which conforms to the approved plan.

*Grade* means the slope of a surface, calculated by the vertical rise (+) or fall (-) of a segment divided by the horizontal length of the segment, expressed in percentage terms.

*Grading* means any excavating or filling or combination thereof.

*Highway* means a street or roadway, which is part of the state highway system which is maintained and/or proposed by the Arkansas Highway and Transportation Department.

*Off-site* means any property not located within the bounds of the property on which excavation or grading work is performed.

*Paved area* means all areas, which are or proposed to be surfaced with gravel, asphalt, concrete, or similar surface treatment material.

*Project engineer* means the professional engineer retained by the developer to design a specific excavation or grading work project.

*Public street system* means the total sum of the public streets including local, minor collectors, major collectors, arterials and highways. The public street system shall include all streets whether by dedication (platted) or prescriptive use and whether or not accepted for maintenance by the city or county.

*Re-vegetation* means the planting or seeding of areas for the purpose of establishing adequate vegetation to prevent erosion of earth material or migration of sediment.

*Right-of-way* means a parcel or strip of land dedicated or deeded to the public or belonging to the public, and accepted by proper authority, by prescriptive rights for use as a street, walkway, railroad, utility or other public use.

*Rough grade* means the stage at which the grad approximately conforms to the approved plan.

*Site* means any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

*Slope* means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

*Stabilization* means the securing of soil or earth material in such a manner that it cannot be moved or relocated by natural means such as gravity, water flow or wind.

*Street* means a right-of-way used or intended for use by vehicular traffic and either dedicated for public use or used by prescriptive right whether or not accepted for maintenance by the city or county.

*Terrace* means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

*Utility* means any part of a group of units which provides service to the public, specifically including; electrical power, telephone service, gas supply, television cable service, water and sanitary sewer.

*Utility company* means the owner of any utility facility, which holds a valid franchise to operate such utility within the area of an excavation or grading work project.

*Vegetation* means any natural or planted growth including trees, grass, vines, bush, weeds, shrubs, etc.

(Ord. No. 2018-01, § 2)

#### **11.52.06. Permit applications.**

- A. Applicants shall submit a Prairie Grove Grading and Erosion Control Permit Application to the city building and code enforcement office. Every application must include the name, address and phone number of the owner of the site; name, address and phone number of the person requesting the permit; name, address and phone number of the person(s) or entity conducting the grading; a map or plat of the proposed area to be affected; the total acreage and acreage affected; and any other information requested on the form.
- B. If any project meets any of the following conditions, the application shall be accompanied by a set of plans and specifications prepared by and containing the stamp of an Arkansas licensed engineer or landscape architect:
  1. The disturbed site exceeds one acre; or
  2. The excavation or grading could alter storm drainage discharge locations or characteristics of storm water run-off; or
  3. The maximum vertical cut or fill will exceed four feet within ten feet horizontal distance from the property line; or
  4. City building or code enforcement staff determines that the extent of the proposed excavation or grading work could create a significant impact to public or adjacent properties.
- C. Plans for engineered projects shall contain, at a minimum, the following:
  1. Elevation contours showing existing and proposed elevations;
  2. Details of all surface and subsurface drainage ditches, devices, walls, dams or other protective devices;
  3. Location of all buildings or permanent structures;
  4. Identification of undisturbed land;
  5. Location of natural features, such as drainage ways, ditches, rock outcroppings, ponds, creeks, etc.;
  6. Locations of known utilities;

7. Identification of all proposed drainage control devices.
8. If the proposed project will have a building placed on disturbed soil, then the following reports shall also be submitted:
  - a. A soil engineering report, including data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and opinions and recommendation covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city shall be incorporated in the grading plans or specifications.
  - b. An engineering geology report that includes adequate evaluations of the geology of the site including conclusions and recommendations for the proposed development and grading.
- D. If the work authorized is not started within six months from the date a permit is issued, the permit shall become null and void.
- E. Fees for permits shall be as follows:

For non-engineered projects: \$50.00.

For engineered projects no more than two acres in size: \$100.00.

For engineered projects over two acres in size: \$100.00 plus \$15.00 for each acre over two, up to a maximum of \$250.00.

(Ord. No. 2018-01, § 2)

#### **11.52.07. Grading restrictions.**

- A. Boundaries of the work must be maintained at least five feet from any public right of way or proposed right of way.
- B. Adequate drainage from embankments and excavations must control and prevent instability caused by material saturation.
- C. Slopes of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes shall have a grade no steeper than 2:1, horizontal to vertical.
- D. Retaining structures or walls shall be provided with weep holes to prevent damage and shall be adequately spaced to prevent overturning pressures greater than 35 pounds per cubic inch. Permanent retaining structures shall maintain a safety factor of at least two against overturning.
- E. Any retaining wall greater than four feet high shall be designed by a registered professional engineer and shall be field inspected by the design engineer.
- F. All proposed rock cuts and any cut slopes resulting in a vertical height of ten feet or greater shall require a geotechnical investigation and a formal report submitted by a registered professional engineer qualified to make such investigations.
- G. Safety railings and other safety devices may be required on retaining walls 2.5 feet or higher. This determination will be made by the building and code enforcement department and be based on the likelihood of potential pedestrian or public access.
- H. Earth materials, which have no more than minor amounts of organic substances and have no rock or similar irreducible materials with maximum dimensions greater than eight inches, unless designed by a registered professional engineer designs the fill and approved by the city.
- I. Compaction of fills shall be a minimum of 90 percent of maximum density as determined by ASTM standards for the moisture-density relations of soils. Field density shall be determined in accordance with ASTM standards.

- J. The slope of all fill surfaces shall be no steeper than 15 percent (6.67 horizontal to one vertical) unless they are keyed into steps in the existing grade and stabilized by mechanical compaction.

(Ord. No. 2018-01, § 2)

#### **11.52.08. Erosion and sedimentation control.**

- A. Provision shall be made to adequately control dust. Provisions shall also be made to adequately control and keep streets clean and free of debris, soil and mud caused by hauling or excavation activities. Public streets shall be cleaned immediately.
- B. All projects shall utilize the appropriate erosion, sedimentation and storm water BMPs contained in the city's stormwater pollution prevention, grading, and erosion control code.
- C. Permanent improvements, such as street, storm sewers, curbs, gutters and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area, so that large areas are not left exposed beyond the capacity of the temporary control measures.
- D. Re-vegetation shall be required within three months after completing any cutting or filling operations. Re-vegetated areas must meet the following conditions:
  - 1. *0—10 percent grade:* Re-vegetation shall be a minimum of seeding and mulching. Such seeding shall provide compete and uniform coverage that minimizes erosion and run-off in no more than two growing seasons.
  - 2. *10—15 percent grade:* Re-vegetation shall be a minimum of hydro-seeding with mulch and fertilizer, staked sod and/or ground cover. Such planting shall provide complete and uniform coverage in no more than two growing seasons.
  - 3. *15—25 percent grade:* Slopes shall be covered with landscape fabric and planted with ground cover.
  - 4. *Greater than 25 percent grade:* Any finish grade greater than 25 percent shall be stabilized with retaining walls, cribbing, terraces, landscape fabric, vegetation or riprap. If riprap is used, the slope's stability and erodibility must be equivalent to or better than its pre-development state.

(Ord. No. 2018-01, § 2)

#### **11.52.09. Inspections.**

- A. The city shall be notified of any field changes prior to commencing with the work involved if earth slopes, retaining structures or storm drainage is affected.
- B. All grading operations for which a permit is required shall be subject to inspection by the city.
- C. For all engineered projects, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and certification of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and certification as to the establishment of line, grade and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the city engineer. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work.
- D. Soil engineering and engineering geology reports shall be required as specified in section 11.52.06(C). During grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the city by the soil engineer and the engineering geologist.

- E. The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and certification concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.
- F. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and certification of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for sub-drains or other ground water drainage devices. He shall report his findings to the soil engineer and the civil engineer for engineering analysis.
- G. The city shall inspect the project at various stages of the work requiring certification and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

(Ord. No. 2018-01, § 2)

#### **11.52.10. Completion requirements.**

- A. Any engineered project shall provide as-built plans to the city upon completion; which shall include at a minimum: original surface/ground elevations; as graded elevations; lot drainage patterns; and all surface and sub-surface drainage structures, swales, ditches and easements.
- B. Upon completion, the city shall be notified by the owner or his representative that all work has been completed as shown on the as-built plans.

(Ord. No. 2018-01, § 2)

#### **11.52.11. Hazards.**

Whenever any existing excavation or embankment or fill on private property has become a hazard to life, limb, or endangers property, or adversely affects the safety, use, stability, or drainage of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the city building and code enforcement department, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of these provisions.

(Ord. No. 2018-01, § 2)

#### **11.52.12. Penalties.**

The penalty for violation of any provision of this chapter, upon conviction, shall be the fines and penalties set forth by the Municipal Code's general penalty clause, chapter 1.32.

(Ord. No. 2018-01, § 2)

# **TITLE 12**

## **PARKS AND RECREATION**

### **CHAPTER 12.04 PARKS COMMISSION**

#### **12.04.01. Creation.**

There be and is hereby created the Prairie Grove Parks Commission pursuant to Act No. 348 of 1947, and that said commission shall have charge of the development, maintenance and administration of the parks owned by the city.

#### **12.04.02. Membership, term.**

The commission shall consist of five members all of whom shall be qualified voters of the city. The commissioners shall be appointed by the mayor and shall be confirmed by a majority vote of the duly elected and qualified members of the city council. The commissioners shall hold office for a term of five years.

#### **12.04.03. Vacancy.**

In the event of a vacancy occurring on the commission, it shall be filled by appointment by the mayor, subject to the approval of a majority vote of the duly elected and qualified members of the city council. Each commissioner shall file the oath required by law in the state of public officials.

#### **12.04.04. Authority, right to employ, limitations on, purchasing.**

The commissioners hereunder appointed shall have full and complete authority to build, manage, operate, maintain and keep in good shape of repairs any municipal building deemed necessary to carry on the recreation parks for said municipality, including the building of swimming pools, field houses, stadiums, zoos, or other buildings necessary to carry on the recreational parks. Said commissioners shall have full and complete charge of said buildings and grounds, including the right to control and permit or refuse to permit such public gatherings or other meetings or affairs as the commissioners shall see fit and deem to be to the best interest of the city. The commissioners shall have the right to employ or remove managers, janitors and other employees of whatsoever nature, kind or character, and to fix, regulate and pay their salaries; it being the intention of this Act (A.C.A. 19-3606—19-3617) to vest in said commissioners authority to build, operate, manage, maintain and control said municipal recreational parks, and to have full and complete charge thereof; provided said commissioners shall not have authority or power to sell, mortgage or encumber said property unless otherwise authorized by the statutes of Arkansas. The commissioners hereunder shall have in addition to other powers enumerated herein, the exclusive right and power to make purchases of all supplies, apparatus and other property and things requisite and necessary for the management and operation of said recreational parks, including the construction of same and repairs and additions thereto. Said commissioners shall have authority to enter into contracts with persons, firms or corporations or organizations for the use of recreational park buildings or parts thereof.

#### **12.04.05. Adoption of rules necessary to carry out the board's function.**

The commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation and management of said municipal recreational parks, and shall have authority to alter, change, or amend such rules and regulations at their discretion.

#### **12.04.06. Reports, audit.**

The commissioners shall submit quarterly reports, beginning three months after they take their oath of office, and each three months thereafter, reporting in full on the operations, including an accounting of receipts and disbursements, to the mayor and city council and furnish such other and further reports, data and information as may be requested by the mayor or city council. The quarterly report to the mayor and city council with respect to receipts and disbursements, shall be certified by the commissioners as correct. The commissioners shall further submit an annual audit of the operations of the recreational parks to the mayor and city council.

#### **12.04.07. Use of funds collected.**

The commissioners hereunder appointed shall have the authority to utilize all revenues derived from the operation of the recreational parks in the operation of said recreational parks. All funds derived from the use of said recreational parks shall be segregated into a park fund, which fund shall be used exclusively in the operation of the recreational parks by the commissioners. Moneys in said fund shall not be mingled with other funds of the city and shall be handled exclusively by the commissioners. Such park fund may also be spent by the commissioners, as they deem best, for the purpose of obtaining attractions to meet on said parks.

#### **12.04.08. Bond.**

The commissioners shall each furnish to the city a \$5,000.00 surety bond that will serve to insure the city against any misappropriation or mishandling of funds. The surety on said bond shall be a reputable surety corporation. The premium on said bonds shall be paid for from moneys in the said park funds.

#### **12.04.09. Salary.**

The commissioners shall receive no salary for their services, but shall be reimbursed from the park fund for actual expenses incurred in the performance of their duties.

#### **12.04.10. Budget.**

The board of commissioners shall submit annually to the city council before the city prepares its budget, the amount of funds necessary for the maintenance, operation and management of the parks, their related properties and facilities above the estimated revenues to be derived from the operation of the parks.

#### **12.04.11. Removal.**

Any commissioner appointed by the provisions of this Act may be removed for cause upon a two-thirds vote of the duly elected and qualified members of the council.

### **CHAPTER 12.08 PARK REGULATION/MOTORIZED VEHICLE USE PROHIBITED**

#### **12.08.01. Motorized vehicle use permitted.**

From and after the effective date of the ordinance from which this chapter is derived, the use of ATVs, UTVs, motorbikes, go-carts and golf carts is prohibited within the boundaries of Rieff Park, Mock Park, Muddy Fork Park or the Donald Parks Tennis Complex. Nothing in this chapter shall be construed to prohibit the use of street-legal, licensed motorized vehicles on parking lots and entrance drives.

(Ord. No. 2020-19, § 2)

### **12.08.02. Penalty.**

From and after the effective date of the ordinance from which this chapter is derived, any person found to be in violation of this chapter may be cited and brought before the Washington County District Court, Prairie Grove Department. Any person who pleads guilty or is found guilty of a violation shall be fined as follows:

- A. No less than \$25.00 and no more than \$100.00 for a first offense;
- B. No less than \$100.00 and no more than \$250.00 for any offense occurring within 12 months of a prior conviction;
- C. Any violation that is continuous in excess of seven days shall be fined no more than \$25.00 per day.

(Ord. No. 2020-19, § 3)

## **TITLE 13 PLANNING**

### **CHAPTER 13.04 PLANNING COMMISSION**

#### **13.04.01. Commission created, membership.**

There is hereby created a commission of the city to be known as the city planning commission, which said commission shall consist of no less than five members no more than seven and of whom not more than one-third may hold any other municipal office and appointment.

(Ord. No. 2021-17, § 2)

#### **13.04.02. Duties.**

The city planning commission shall have all the duties and functions as pertaining to planning commissions as conferred upon the city for planning as provided by Act 186 of the 1957 Acts of Arkansas.

(Ord. No. 161-67, § 2)

#### **13.04.03. Appointment.**

The members of the city planning commission shall be named and appointed by the mayor and his appointments will be valid and effective upon confirmation by the city council.

(Ord. No. 161-67, § 3)

#### **13.04.04. Term, vacancies.**

- A. The terms of the members of the city planning commission shall be five years and shall be staggered so that at least one member is appointed every year. Positions one and six (if filled) shall expire on December 31, 2011 and every five years thereafter; positions two and seven (if filled) shall expire on December 31, 2010 and every five years thereafter; position three shall expire on December 31, 2009 and every five years thereafter; position four shall expire on December 31, 2008 and every five years thereafter; and, position five shall expire on December 31, 2007 and every five years thereafter. The mayor shall make the initial assignments of the present members to various positions. As vacancies occur in said commission for

whatever cause, said vacancies shall be filled in the manner provided and said appointees shall hold office until expiration of the term to which they are appointed. All members of the commission whose terms may expire shall serve until their successors in office have been appointed and confirmed.

- B. Should a member miss four or more meetings within any 12-month period, they shall be deemed to have resigned and the mayor shall appoint a replacement pursuant to section 13.04.03 of this Code.

(Ord. No. 2021-17, § 3)

#### **13.04.05. Compensation of planning commission members.**

Each member of the planning commission shall be paid at a rate of \$50.00 for each meeting of the planning commission they attend. If a city council member is also a member of the planning commission, they shall be paid \$50.00 for attending planning commission meetings.

(Ord. No. 2021-17, § 4)

# TITLE 14

## ZONING

### CHAPTER 14.04 ZONING ORDINANCE

#### 14.04.01. Zoning ordinance adopted by reference.

From and after the effective date hereof, the attached document described as "Zoning Ordinance, City of Prairie Grove, Arkansas" should be and is hereby adopted by incorporation by reference as incorporated herein. The city clerk should be and is hereby directed to place three copies of the regulations adopted by incorporation by reference for the purpose of making the same available to the public.

(Ord. No. 98-9, §§ 1, 2)

### CHAPTER 14.08 RESERVED

### CHAPTER 14.12 FLOOD DAMAGE PREVENTION

#### 14.12.01. Flood damage prevention code adopted.

The document entitled "City of Prairie Grove Flood Damage Prevention Code" is hereby adopted by reference.

(Ord. No. 2004-4, § 1)

### CHAPTER 14.16 SIGNS

#### 14.16.01. Definitions.

*Abandoned sign* means any sign that no longer correctly advertises an actual business, lessor, owner, product or activity.

*Address sign* means an item that would otherwise be a sign under this chapter, but is used solely to identify the address of the location where it is located. Address signs are not considered a "sign" under this chapter and are exempt from regulation.

*Billboard* means a freestanding, off-site commercial sign, greater than 32 square feet in size. Unless further restricted elsewhere, billboards are limited to four separate signs (two in each direction) of no more than 192 square feet each mounted on a single structure.

*Display surface area* means the net geometric area enclosed by the display surface of the sign, including the outer extremities of all letters, characters and declinations. Display surface area shall not include the structural supports for freestanding signs and provide that only one face of a double-faced sign as defined shall be considered in determining the display surface area.

*Freestanding sign* means a sign that is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.

*Illuminated sign* means any sign that has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign.

*Joint identification sign* means a sign that serves as common or collective identification for a group of persons or businesses operating on the same lot, building, structure, shopping center, or office complex. The sign may include one sign identifying the group or individual signs located on one mount.

*Mansard roof* means any roof that has an angle greater than 45 degrees from the horizontal and that derives part of its support from the building wall and is attached to a low slope roof and which extends along the length of the building.

*Monument sign* means a freestanding sign mounted to a permanent ground base of masonry, concrete, wood, stone, or similar materials and not affixed to posts as its primary mounting apparatus.

*Non-conforming sign* means a sign existing at the effective date of the adoption of this chapter that could not be built to conform to the requirements of this chapter.

*Portable sign* means a sign manufactured for portable or mobile use that are not permanently affixed to the ground, posts or buildings.

*Projecting sign* means a sign that is affixed at an angle or perpendicular to the wall of any building in such a manner to be read perpendicular or at an angle to the wall on which it is mounted.

*Sign* means any device, frame, letter figure, character, mark, plane, point, design, picture, stroke, stripe, trademark or reading matter that is used or intended to be used to attract attention or convey information when the same is placed out of doors in view of the general public. A single sign shall be considered a single display surface or display device containing elements organized, related, or composed to form a unit. Where there is no common element and a sign is displayed randomly, it shall be considered one unit.

*Surface mounted sign (wall sign)* means a sign painted on or affixed directly to the surface of a wall or building and not extending vertically from the building.

*Temporary sign* means a sign that is advertising a special or one-time event and is not meant to be permanently erected.

(Ord. No. 2017-01, § 1)

#### **14.16.02. Visibility requirements.**

At no time shall any sign be placed in such a manner as to constitute a visual impairment or distraction for vehicles, either on abutting streets, roads, or highways, or for vehicles entering or exiting the premises where the sign is placed or within parking areas, driveways, or delivery lanes on the premises.

(Ord. No. 2017-01, § 1)

#### **14.16.03. Placement of signs in an A District.**

- A. Two signs, not exceeding 64 square feet, are allowed per tax parcel.
- B. Signs may not be lit in agricultural areas.

(Ord. No. 2017-01, § 1)

#### **14.16.04. Placement of signs in an R District.**

- A. One sign, not exceeding eight square feet, is allowed per tax parcel.
- B. One additional sign, not exceeding six square feet, attached to the building, shall be allowed when a home occupation is conducted at the property.
- C. On unimproved lots at the entrance to a platted subdivision, the sign shall not exceed 32 square feet.
- D. Signs may not be lit in residential areas.

(Ord. No. 2021-23, § 5)

#### **14.16.05. Placement of signs in a B or M District.**

The following requirements shall apply to all signs placed in a B (Business) or M (Manufacturing) District:

A. *Freestanding signs.*

1. Display area not to exceed 60 square feet, provided that the surface may be increased by four square feet for each foot the sign is set back beyond five feet of the street right-of-way. The maximum sign surface shall never exceed 150 square feet.
2. Signs shall be set back a minimum of five feet from the street right-of-way.
3. Signs shall be set back a minimum of 25 feet from the boundary of any R or A District.
4. Signs may be illuminated but only if the light source points at the sign or is internal, and does not shine in the direction of the public.
5. Fluctuating, flashing, beacons or animated illumination is prohibited.

B. *Joint identification signs.*

Where more than one freestanding sign is placed on a single mount, where more than one business shares occupancy of a building or share parking, an allowance of an additional 15 square feet per occupancy will be allowed but not to exceed 45 square feet of total allowable additional square footage for the surface display area.

C. *Projecting signs.*

1. Projecting signs shall not project more than three-fourths the width of the sidewalk in front of a business, or within two feet of a street right-of-way. No projecting sign shall project more than eight feet from the building.
2. A projecting sign must be located on the vertical surface of the building and no higher than the eave or rafter line and no lower than eight feet from the ground line.
3. A projecting sign may not exceed 30 square feet in surface area.

D. *Wall signs.*

1. Wall signs may not project more than 18 inches from the surface of a building, with the exception of mansard-style roofs, in which case one edge must be flush with the roof and the sign must be perpendicular to the ground.
2. Wall signs are limited to one sign per business, per street exposure of the building.
3. The total of wall signs may not exceed 200 square feet or 20 percent of the wall surface on which they are mounted, whichever is less.
4. Lighted sign requirements are the same as those found under freestanding signs above.

E. *Monument signs.*

1. Monument signs shall not exceed eight feet in height nor have greater than 60 square feet of surface area.
2. Monument signs must be mounted in a manner that will not create a hazard for vehicular movement or traffic on or off premises and cannot restrict the line of sight at intersections within parking lots, at entrances to public roads, or for the delivery of goods.
3. Lighted sign requirements are the same as those found under freestanding signs above.

F. *Portable signs.*

1. One portable sign may be allowed for any single commercial occupancy by conditional use permit only.
  2. Lighted sign requirements are the same as those found under freestanding signs above.
- G. *Temporary signs.*
1. Temporary signs are allowed by permit only.
  2. Permits are good for 32 days, including the day the permit is issued.
  3. Temporary signs may not exceed 40 square feet in size.

(Ord. No. 2017-01, § 1)

#### **14.16.06. Exemptions.**

- A. Window signs in business and manufacturing districts are exempt.
- B. A single sign, not exceeding 50 square feet, is allowed at the primary entrance to any subdivision. Additional signs, not exceeding ten square feet, are allowed at any secondary entrance to any subdivision.
- C. Traffic signs placed by governmental entities directing traffic and providing travel information.
- D. During the period of time 60 days prior to and seven days following an election taking place within the city limits of Prairie Grove, all sign restrictions governing the number and total size of signs shall be exempt. The requirements of section 14.16.02 concerning visibility shall always be in force.
- E. If a property is currently for sale or lease, additional signs may be allowed as follows:
  1. In an R District, two additional signs, each not exceeding nine square feet may be allowed.
  2. In an A, B or M District, two additional signs, each not exceeding 60 square feet may be allowed.

(Ord. No. 2017-01, § 1)

#### **14.16.07. Sign permits and plan submittals.**

- A. Any permanent sign erected in a commercial or manufacturing zone shall require a one-time permit of \$25.00.
- B. Prior to construction or erection of any such sign, a plan submittal shall be made to the planning office to determine compliance with this chapter.
- C. Any permit issued for a sign shall expire 180 days after issuance if the permitted sign is not erected.
- D. If a permitted sign is later removed for longer than six months, the permit for that sign shall expire.
- E. Permits for temporary signs shall have no charge.

(Ord. No. 2017-01, § 1)

#### **14.16.08. Variances and appeals.**

The board of adjustment shall serve in the capacity of the board of sign appeals by the planning office. All variances shall require the posting of public notice at the site of the proposed sign a minimum of ten days prior to the public hearing. A \$25.00 fee shall be paid for any request for a sign variance under this chapter.

(Ord. No. 2017-01, § 1)

#### **14.16.09. Billboards.**

- A. Billboards are prohibited unless specifically permitted by this chapter.

- B. Billboards are permitted along U.S. Highway 62 (Heritage Parkway) from the eastern city limits to State Highway 170; and from the western city limits to the Muddy Fork of the Illinois River.
- C. Billboards must be spaced a minimum of 1,300 linear feet from any other billboard on either side of the highway.
- D. Billboards are only allowed in commercially zoned districts.

(Ord. No. 2017-01, § 1)

## **CHAPTER 14.20 ANNEXING, VACATING, REZONING AND REPLATTING PROPERTY**

### **14.20.01. Annexing property.**

Ord. No. 99-14	All of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2000-7	Part of NW ¼ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2003-12	Part of NW ¼ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2003-30	Part of E ½ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2004-8	Part of NW ¼ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2004-17	Part of SE ¼ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2005-5	SW ½ of Sec. 24, Twp 15 N, Range 32 West
Ord. No. 2005-11	SE ¼ of Sec. 8, Twp 15 N, Range 31 West
Ord. No. 2021-03	Part of SW ¼ of the SW ¼ of Sec. 19, Twp 15 N, Range 31 West

### **14.20.02. Vacating property.**

Ord. No. 93-5	East-West alley between Lots 1, 2, 11, 12 in Block 6 of Rogers Addition
Ord. No. 95-9	Harper St. between Blocks 1 and 7 North-to-South alley traversing Blocks 1 and 7 in Bryght's Addition
Ord. No. 96-5	Alley N. to S. in Block 1 of Youree Addition
Ord. No. 96-11	N. Linda St. to Block 3 of Royal Oaks Addition
Ord. No. 97-16	Alley E. to W. between Lots 1—6 and Lots 7—12 of Cummings Addition
Ord. No. 97-17	No.-So. Street between Lots 4 and 6 of Fidler Addition
Ord. No. 2000-9 Ord. No. 2018-6	20-foot strip from east and west sides of right-of-way of Neal St./Frisco Ave. from Commercial St. south to Boston St. between Block 2 of Bryght's Addition on west and Blocks 1 and 7 of Bryght's Addition on east
Ord. No. 2001-13	Section of Sycamore St. between Block 3 and 4 of A.B. Neal Addition
Ord. No. 2021-18	Portion of alley in Block 10 of Original Plat of Prairie Grove between Bush and Park Streets

**14.20.03. Replatting property.**

Ord. No. 2011-1	Replat of Lots 145, 146 and 147 of Phase 2 of Prairie Meadow Subdivision
Ord. No. 2012-5	Final approval of Grandview Estates, Phases 3A, 3B and 3C
Ord. No. 2016-4	The Final Plat of the 2016 Silva Lot Split
Ord. No. 2016-15	The Coyle Subdivision Final Plat
Ord. No. 2017-7	The Grandview Estates Phase III Subdivision
Ord. No. 2017-11	The K-Day Subdivision Final Plat
Ord. No. 2017-12	The Taylor Subdivision Final Plat
Ord. No. 2017-13	The Highland Green Subdivision Phase 2 Preliminary Plat
Ord. No. 2018-03	The Belle Mead Phase 3 Subdivision Plat
Ord. No. 2018-11	The Moore Subdivision Final Plat
Ord. No. 2018-22	Bartholomew Subdivision Final Plat
Ord. No. 2018-25	The Highland Green Subdivision Phase Final Plat
Ord. No. 2019-06	Belle Meade Phase 4 Preliminary Plat
Ord. No. 2019-38	Snyder Grove Subdivision Phases 2, 3 and 4 Preliminary Plat
Ord. No. 2020-04	Prairie Meadows Subdivision Lot 3, Phase 1 Replat
Ord. No. 2020-05	Belle Meade Subdivision Phase 4 Final Plat
Ord. No. 2020-14	Wakefield Park Subdivision Preliminary Plat
Ord. No. 2020-21	Wagnon Springs Subdivision Preliminary Plat
Ord. No. 2020-22	Lawson Subdivision (Informal) Final Plat
Ord. No. 2020-24	Prairie View Subdivision Preliminary Plat
Ord. No. 2020-25	Southwinds Land Company Subdivision (Informal) Final Plat
Ord. No. 2020-28	Marcus Nalls Subdivision (Informal) Final Plat
Ord. No. 2021-07	KSDA, Inc. Subdivision (Informal) Final Plat
Ord. No. 2021-08	Replat of Lots 148 and 149 of Phase 2 of Prairie Meadows Subdivision
Ord. No. 2021-19	Snyder Grove Subdivision Phase 5 Preliminary Plat
Ord. No. 2021-24	Wagnon Springs PUD, Phase 2 Preliminary Plat
Ord. No. 2021-25	KSDA, Inc. Subdivision on South Neal Final Plat
Ord. No. 2021-26	Wakefield Subdivision Final Plat

**14.20.04. Rezoning property.**

Ord. No. 95-7	A-1 to R-2	NW ¼ of SE ¼ of Sec. 13, Twp 15 N
Ord. No. 95-10	R-2 to R-1	NW ¼ of SE ¼ of Sec. 13, Twp 15 N
Ord. No. 95-11	A-1 to C-3	SE ¼ of SW ¼ of Sec. 8, Twp 15 N
Ord. No. 96-7	C-2 to R-2	Lots 15, 16, 17, 18, 19 and 20 in Block 2 of Neal Add.
Ord. No. 97-6	A-1 to C-3	SW ¼ of SE ¼ of Sec. 13, Twp 15 N
Ord. No. 97-7	C-2 to C-1	Lots 5 and 6 in Block of original town
Ord. No. 97-8	R-2 to C-3	NW ¼ of Sec. 18 in Twp 15 N

Ord. No. 97-11	A-1 to C-3	NW ¼ of NW ¼ of Sec. 17, Twp 15 N
Ord. No. 97-12	A-1 to C-3	NE ¼ of NW ¼ of Sec. 17, Twp 15 N
Ord. No. 98-11	R-1 to R-1.5	NE corner of Sec. 19, Twp 15 N, Range 31 West
Ord. No. 98-13	A-1 to R-3	Part of Q ½ of SE ¼ of Sec. 13, Twp 15 N, R 32
Ord. No. 98-25	A-1 to B-1	Part of NW ¼ of Sec. 17, Twp 15 N, Range 31
Ord. No. 2000-5	R-2 to B-2	Lots 16 and 17, Block 2 of Youree's Addition
Ord. No. 2000-10	A-1 to R-1.5	Part of SW ¼ of Sec. 13, Twp 15 N, Range 32 West
Ord. No. 2001-1	A-1 to B-1	Part of SW ¼ of Sec. 13, Twp 15 N, Range 32 W
Ord. No. 2002-4	A-1 to M	Part of N ½ of Sec. 13, Twp 15 N, Range 32 West
Ord. No. 2002-10	O-2 to R-2	Lots 7, 8, 9, 10, 11 and 12 in Prairie Meadows Sub.
Ord. No. 2002-12	A-1 to R-1	Part of NW ¼ of Sec. 17, Twp 15 N, Range 21 W
Ord. No. 2002-15	A-1 to R-1	Lot 6 of Brandon Estates Subdivision
Ord. No. 2003-3	R-2 to B-2	Block 7 in original Town Plat
Ord. No. 2003-5	B-2 to R-2	Part of NW ¼ of Sec. 24, Twp 15 N, Range 32 W
Ord. No. 2004-5	A-1 to B-2	Part of NE ¼ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2004-6	A-1 to R-1.5	Part of SW ¼ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2004-7	R-1 to R-1.5	Part of NW ¼ of Sec. 24, Twp 15 N, Range 32 W
Ord. No. 2004-10	A-1 to B-2	NW ¼ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2004-15	A-1 to R-1.5	Part of NW ¼ of Sec. 12, Twp 15 N, Range 32 W
Ord. No. 2004-16	R-2 to O-1	Part of SE ¼ of Sec. 18, Twp 15 N, Range 31 West
Ord. No. 2004-18	R-2 to CBD	Lots 5, 6, 7, 8, 9 and 10 in original plat of town
Ord. No. 2004-19	A-1 to R-1	Part of NW ¼ of Sec. 12, Twp 15 N, Range 32 W
Ord. No. 2004-20	A-1 to R-1	Part of E ½ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2004-21	A-1 to R-1.5	Part of SE ¼ of Sec. 12, Twp 15 N, Range 32 West
Ord. No. 2005-10	R-1 to B-2	Part of NE ¼ of Sec. 17, Twp 15 N, Range 31 West

Ord. No. 2005-36	A-1 to R-1.5	Part of NE ¼ of Twp 15 N, Range 32 West
Ord. No. 2006-26	A-1 to R-1.5	SE ¼ of Sec. 5, Twp 15 N, Range 31 West
Ord. No. 2009-9	A-1 to B-2	Part of NW ¼ of Sec. 4, Twp 15 N, Range 31 West
Ord. No. 2009-10	A-1 to B-2	Part of NE ¼ of Sec. 4, Twp 15 N, Range 31 West
Ord. No. 2010-5	A-1 to B-2	Part of NW ¼ of Sec. 33, Twp 16 N, Range 31 W
Ord. No. 2010-6	A-1 to B-2	Part of SW ¼ of Sec. 33, Twp 16 N, Range 31 W
Ord. No. 2010-18	A-1 to B-2	Part of NE ¼ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2010-23	R-1 to B-2	Lots 6 and 7 of Block 12 of Rogers Addition
Ord. No. 2010-26	A-1 to B-2	Part of SE ¼ of Sec. 4, Twp 15 N, Range 31 West
Ord. No. 2011-7	A-1 to M	Part of SE ¼ of Sec. 23, Twp 15 N, Range 32 West
Ord. No. 2011-14	M to B-2	Part of SE ¼ of Sec. 23, Twp 15 N, Range 32 West
Ord. No. 2011-20	A-1 to B-2	Part of NW ¼ of Sec. 4, Twp 15 N, Range 31 West
Ord. No. 2012-6	A-1 to B-2	Part of N ½ of Sec. 33, Twp 16 N, Range 31 West
Ord. No. 2012-10	A-1 to B-2	Part of SE ¼ of Sec. 33 Twp 16 N, Range 31 West
Ord. No. 2012-12	A-1 to B-1	Part of NE ¼ of Sec. 8, Twp 15 N, Range 31 West
Ord. No. 2012-17	A-1 to B-1	Part of NE ¼ of Sec. 5, Twp 15 N, Range 31 West
Ord. No. 2013-2	A-1 to B-2	Part of NE ¼ of Sec. 4, Twp 15 N, Range 31 West
Ord. No. 2013-5	A-1 to B-2	Part of Lot 1 in Steven Heights Subdivision
Ord. No. 2013-10	A-1 to B-2	Part of N ½ of Sec. 33, Twp 16 N, Range 31 West
Ord. No. 2013-22	A-1 to B-1	Part of E ½ of Sec. 8, Twp 15 N, Range 31 West
Ord. No. 2013-23	B-2 to B-1	Part of SW ¼ of Sec. 23, Twp 15 N, Range 32 West
Ord. No. 2014-6	B-1 to R-1.5	Lot 141-A in Prairie Meadows Sub., Phase II
Ord. No. 2014-23	A-1 to B-1	Part of SW ¼ of Sec. 33, Twp 16 N, Range 31 West

Ord. No. 2015-6	A-1 to B-2	Part of S ½ of Sec. 17, Twp 15 N, Range 31 West
Ord. No. 2015-11	R-1.5 to B-2	Lot 586 of Sundowner Subdivision, Phase 1
Ord. No. 2015-21	A-1 to B-2	Part of E ½ of Sec. 17, Twp 15 N, Range 31 W
Ord. No. 2015-25	R-2 to R-1.5	Lots 270—317 and 26—28 of Sundowner Sub. Phase 3
Ord. No. 2016-8	A-1 to B-2	Lot One (1) of the Final Plat of Doug Smith
Ord. No. 2016-9	A-1 to B-2	Part of SW ¼ of the SW ¼, Twp 15 N, Range 31 W
Ord. No. 2016-10	A-1 to B-2	Part of SE ¼ of the NE ¼, Twp 16 N, Range 31 W
Ord. No. 2016-12	A-1 to R-3	Part of SE ¼ of the NW ¼, Twp 15 N, Range 31 W
Ord. No. 2016-16	A-1 to M	Part of SE ¼ of the NE ¼, Twp 15 N, Range 32 W
Ord. No. 2017-3	B-1 to R-3	Part of SW ¼ of the SW ¼, Twp 18 N, Range 31 W
Ord. No. 2017-4	B-2 to R-1.5	Lots 236—253 of the Sundowner Subdiv. Phase 3
Ord. No. 2017-8	B-2 to R-1.5	Lots 222—237 of the Sundowner Subdiv. Phase 3
Ord. No. 2017-9	B-1 to R-2	Lots 3, of the Prairie Meadows Subdiv., Phase 1
Ord. No. 2018-02	A-1 to R-1.5	Part of NE ¼ of Sec 19, Twp 15 N, Range 31 W
Ord. No. 2018-10	A-1 to B-2	W ½ of E ½ of SE ¼ of SW ¼, Sec. 33, Twp 16 N, Range 31 W
Ord. No. 2018-17	A-1 to R-1.75	Lots 23—28 of the South Club House Estates Subd.
Ord. No. 2018-18	A-1 to B-2	Parcels 805-20329-150 and 805-20329-140
Ord. No. 2018-23	A-1 to B-2	Part of NE ¼ of NW ¼ Sec. 4, Twp 15 N, Range 31 W
Ord. No. 2018-24	R-1.5 to R1.75	Brothers Investment LLC Property
Ord. No. 2019-04	A-1 to B-2	Part of NE ¼ of SW ¼ Sec. 23, Twp 15 N, Range 32 W
Ord. No. 2019-05	B-2 to R-1.5	Part of Lots 190—205 of Sundowner Subdiv. Phase 3
Ord. No. 2020-06	A-1 to R-1	Part of SW ¼ of the NW ¼, part of NW ¼ of the SW ¼ of Sec. 17, Twp 15 North, Range 31 West
Ord. No. 2020-07	R-1 to R-1.75	Tracts A, B and C. Part of NW ¼ of the SW ¼ of Sec. 18, Twp 15 North, Range 31 West

Ord. No. 2020-08	A-1 to R-1.75	Tract B. Part of SE ¼ of the NW ¼ of Sec. 19, Twp 15 North, Range 31 West
Ord. No. 2020-09	A-1 to R-2	Part of SW ¼ of the SW ¼ of Sec. 4, Twp 15 North, Range 31 West
Ord. No. 2020-10	A-1 to B-2	Part of NE ¼ of the NW ¼ of Sec. 20, Twp 15 North, Range 31 West
Ord. No. 2020-13	A-1 to B-1	Part of the SW ¼ of the NW ¼ of Sec. 4, Twp 15 North, Range 31 West
Ord. No. 2020-15	A-1 to R-1.75	Tract A. W ½ of the SE ¼ of the SE ¼ of Sec. 33, Twp 16 North, Range 31 West
Ord. No. 2020-17	A-1 to R-1.75	Part of W ½ of the SW ¼ of Sec. 17, Twp 15 North, Range 31 West
Ord. No. 2020-26	B-2 to R-3	Part of SW ¼ of the NW ¼ of Sec. 4, Twp 15 North, Range 31 West
Ord. No. 2021-21	A-1 to R-1.5	Part of SE ¼ of NW ¼ of Sec. 19, Twp 15 N, Range 31 West
Ord. No. 2021-04	A-1 to R-1.75	Part of NE ¼ of the NE ¼ and part of SE ¼ of NE ¼ of Sec. 24, Twp 15 North, Range 32 West
Ord. No. 2021-05	A-1 to B-1	Part of Lots 4, 5 and 6 of Stevens Heights Sub.
Ord. No. 2021-06	A-1 to R-2	Part of SW ¼ of the SW ¼ of Sec. 4, Twp 15 North, Range 31 West (Teague)
Ord. No. 2021-14	A-1 to R-2	Part of SW ¼ of the SW ¼ of Sec. 4, Twp 15 North, Range 31 West (Gage)
Ord. No. 2021-15	A-1 to B-1	Part of NW ¼ of the SW ¼ of Sec. 4, Twp 15 North, Range 31 West
Ord. No. 2021-16	R-1.75 to B-2	Part of N ½ of the NW ¼ of Sec. 20, Twp 15 North, Range 31 West

# TITLE 15

## SUBDIVISION REGULATIONS

### CHAPTER 15.04 GENERAL PROVISIONS

#### **15.04.01. Purpose.**

From and after the effective date hereof, subdivision regulations developed December, 1997, a copy of which is attached hereto and incorporated herein by reference, as hereby adopted by such incorporation by reference.

(Ord. No. 98-8, § 1)

#### **15.04.02. Maintenance of three copies.**

The city clerk should be and is hereby directed to place three copies of the regulations adopted by incorporation by reference for the purpose of making the same available to the public.

(Ord. No. 98-8, § 2)

#### **15.04.03. Off-site improvements.**

- A. Where developments impact neighboring properties, streets, easements, or right-of-way; off-site improvements may be required to improve drainage, streets, utilities, sidewalks, or any other infrastructure as deemed impacted, in order to protect those adjacent properties and uses. Increased drainage flow, increased vehicular traffic, increased pedestrian traffic, or excessive demand on city utilities may require the developer to install or participate in necessary off-site improvements to mitigate potential problems. This can include dedicating additional right-of-way for road or sidewalk improvements, constructing larger utility lines to insure adequate performance and fire flow, sidewalks where existing rights-of-way do not include them, and increased drainage structures and devices to protect downstream properties.
- B. When a proposed land development has direct access to or fronts on an existing substandard street, the developer shall be responsible for the following:
  - 1. In all cases, for the entire length of the proposed land development, the developer shall dedicate a minimum of 25 feet of right-of-way measured from the centerline of the existing street. The right-of-way shall be determined by the master street plan. For unusual alignment or terrain conditions, the planning commission and/or city council may require a greater width of right-of-way dedication. The required width of right-of-way dedication shall be determined during the preliminary plat review and approval stage.

When the proposed development is of a size and magnitude to show cause for additional street development, such access street shall have standard right-of-way easements and road construction that comply with appropriate city standards.
- C. When a proposed land development has direct access to or fronts on an existing substandard street, the developer shall be responsible for the following:
  - 1. In all cases, for the entire length of the proposed land development, the developer shall dedicate a minimum of 25 feet of right-of-way measured from the centerline of the existing street. The right-of-way shall be determined by the master street plan. For unusual alignment or terrain conditions, the planning commission and/or city council may require a greater width of right-of-way dedication. The

required width of right-of-way dedication shall be determined during the preliminary plat review and approval stage.

When the proposed development is of a size and magnitude to show cause for additional street development, such access street shall have standard right-of-way easements and road construction that comply with appropriate city standards.

2. If an off-site substandard street serves a proposed development the developer shall be responsible for the entire cost of improving the off-site section of street to the current city standards. The upgrading of said off-site section of street shall be included as a part of the development plan.
3. The street improvement cost shall include, but not be limited to, the costs of right-of-way clearing, roadway excavation and embankment, bridges, pipe and box culverts, roadway shaping, drainage blankets, base, paving, utility adjustments, and miscellaneous items. The developer's proportionate share of the street improvement costs shall be 50 percent when the development abuts one side of the street and 100 percent when the development abuts both sides of the street.
4. The type of street improvements shall be based on the city master street plan and design standards. The developer's proportionate share of the cost of improving the street shall be determined by the director of transportation and planning.
5. Depending on the road classification, surface type, surface width and condition, traffic, terrain, alignment, drainage and budget, one of the following types of improvements shall be made:
  - a. Patching and hot mix overlay within existing right-of-way with some possible drainage and alignment work.
  - b. Reconstruction involving right-of-way clearing, drainage structures, shaping roadway, drainage blankets, base, paving and miscellaneous items. The paving shall consist of asphalt hot mix surface course.
6. The required off-site improvements and the developer's proportionate share of the cost shall be determined at the preliminary plat review and approval stage.
7. Any monies paid into the city street fund may be used by the city for any purpose determined to be in the public interest of the city. The city may use the funds to improve said street, improve other streets, or for maintenance of city streets.
8. Any proposed development fronting an existing road right-of-way that does not include sidewalks meeting city standards shall be responsible for improving or constructing sidewalks adjacent to and abutting the development.
9. The city can contract with independent engineers to conduct water and/or sewer capacity studies, street and drainage improvement estimates, or any other technical recommendations which may be needed to determine off-site costs, at the expense of the developer. These studies will be used to determine if off-site improvements are required to meet necessary capacity requirements of the subdivision and to prepare an estimate of their approximate costs.

(Ord. No. 05-15, §§ 1—4)

## **CHAPTER 15.08 DEFINITIONS**

### **15.08.01. Definitions.**

For the purpose of these regulations, certain terms used herein are defined as follows:

*Alley* means a minor public way dedicated to public use for utility easements and vehicular access to the back or the side of properties abutting a street.

*Comprehensive plan* means a long-range plan for the planning area including plans for land use, streets and community facilities.

*Contour intervals* means topographic map lines connecting points of equal elevations.

*Dead-end street* means a street having one end open to traffic and being permanently terminated by a vehicular turnaround.

*Dedication* means land and improvements offered to the city, county or state and accepted by them for public use, control and maintenance.

*Development plan* means a drawing showing all proposed improvements to a piece of property such as streets, parking lots, buildings, drives, signs, utilities, drainage, grading and planting by size and location.

*Easement* means a grant by the property owner to the public, a corporation or persons, of the use of a strip of land for specific purposes.

*Improvements* means physical changes made to property to prepare it for development such as street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges and similar items.

*Lot* means a portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development.

*Plan, comprehensive* means the plan made and adopted by the planning commission and accepted by the city council indicating the general locations recommended for the various land uses, major streets, parks, public buildings, zoning districts, and other public improvements.

*Plan, major street* means a part of the comprehensive plan made and adopted by the planning commission and accepted by the city council classifying certain streets within the planning area jurisdiction as arterial or collector streets.

*Plat, final* means a complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries and proposed streets and other improvements.

*Plat, preliminary* means a preliminary plat for a subdivision shall be a formal plan, drawn to scale, indicating prominent existing features of a tract and its surroundings and the general layout of the proposed subdivision and shall meet the requirements outlined herein.

*Right-of-way* means the land opened, reserved or dedicated for a street, walk, drainage or other public purposes.

*Setback lines or building lines* means a line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected except as provided in ordinances.

*Street* means a strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel which may also be used to provide space for sewers, public utilities trees and sidewalks.

*Street, arterial* means a street or road of considerable continuity which serves or is intended to serve as the principal trafficway between separated areas of districts and which is the main means of access to the primary street system or expressways.

*Street, collector* means a street which in addition to serving abutting properties, intercepts minor streets, connects with community facilities and carries neighborhood traffic to the major arterial street system. Where possible, houses should not front on collector streets.

*Street, frontage* means a minor street which is generally parallel to and adjacent to a major highway or railroad right-of-way and which provides access to abutting properties, and protection from through traffic.

*Street, minor* means a street used primarily to provide access to abutting properties.

*Subdivider* means a person, firm or corporation undertaking to develop a subdivision as defines in these regulations.

*Subdivision* means a division of a lot, tract or parcel of land into two or more lots or other division of land, for the purpose of transfers of ownership or development, extension of utilities, dedication of easements or right-of-way, whether immediate or future, including all changes in street or lot lines, provided, however, that where no new streets or easements of access are involved the following shall not be included in this definition and may be processed as an informal plat:

- A. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the original lot areas are not decreased.
- B. The divisions of land into parcels of five acres or more.
- C. The subdivision or resubdivision of land where public sewers and improved streets are available and the resultant lots comply with the requirements of the zoning ordinance.

(Ord. No. 1970-4, § 1D)

## **CHAPTER 15.12 PROCEDURE FOR SUBDIVISION APPROVAL**

### **15.12.01. Pre-application.**

The subdivider should consult with the city inspector for advice and assistance before the preparation for the preliminary plat and formal application for preliminary approval. At this time, he may request instruction and check lists to guide him in the preparation of plats. This will familiarize the subdivider with these regulations; the master street plan, the land use plan, zoning regulations and other official plans, policies and public improvements. After reaching preliminary conclusions regarding the proposed subdivision as provided, the subdivider shall prepare and submit a preliminary plat together with any necessary supplementary information.

(Ord. No. 1970-4, § 2A)

### **15.12.02. Preliminary plat.**

- A. *Plat submission.* The subdivider shall submit to the planning commission an application for preliminary plat approval and ten copies of a preliminary plat of any proposed subdivision to the city clerk at least 15 days prior to a meeting of the city planning commission at which consideration is requested. Submission of a preliminary subdivision plat shall constitute formal filing of a plat with the city. The city planning commission will in writing advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards herein, and will discuss possible modifications if necessary to secure conformance.

The subdivider shall submit the proposed plat to the city council, the water and sewer department, the gas, electric, and telephone companies for consideration and report, and the planning commission may further submit copies of the plat to the state health department, school board, or any other interested city, county, state or federal agency for consultation and advice.

- B. *Planning commission action.* Within 60 days after acceptance for review of the preliminary plat by the planning commission, it shall indicate in writing its approval, disapproval, or approval with conditions.

Failure of the planning commission to act on the preliminary plat within 60 days of its acceptance will be deemed approval of the preliminary plat. The planning commission may vote to delay action for more than 60 days with reasonable cause. Approval with the conditions or disapproval of the preliminary plat by the planning commission shall be noted, both on the preliminary plat and the planning commission records. Approval of the preliminary plat is authorization for the subdivider to prepare engineering plans and specifications for streets and utilities.

If the subdivider desires to develop only a portion of the total area intended for development, the planning commission shall require preliminary plat approval for the entire area to insure that the purpose of intent of these regulations are complied with, and a final plat shall be required only for the portions of the total area intended for present development, with additional final plat or plats to be required for other portions of the area as developed.

- C. *Approval period.* The approval of the preliminary plat shall lapse after one year unless work is actively progressing on the installation of the required improvements. If the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the planning commission for approval.
- D. *Street and utility plans and specifications.* After the approval of the preliminary plat but before improvements or the final plat are started, the subdivider shall submit two copies of street plans, profiles, specifications and cross sections along with grading and drainage plans to the city street department for review and approval.

During the same period the subdivider shall submit two copies of all water and sewer plans and specifications to the water and sewer department along with the approval of the state board of health. If public water and/or sewer are not available, the subdivider must submit the approval of private systems by the county sanitarian.

(Ord. No. 1970-4, § 2B)

### **15.12.03. Final plan.**

After the preliminary plat is approved and after engineering plans and specifications are approved, the subdivider shall complete all improvements that are required under these regulations before submitting the final plat, or deposit with the city clerk an acceptable surety bond or cash for 100 percent of the cost of the required improvements as determined by the city engineer with occupancy to be denied by the city until the improvements are installed. After compliance with one of the above requirements the subdivider may present the final plat to the city planning commission with an application for approval along with certificates and other supporting information at least 15 days prior to the planning commission meeting at which consideration is requested.

The final plat shall conform substantially with the preliminary plat, as approved, and it shall represent the required improvements as they have been built or designed. If serious discrepancies are found, the planning commission may disapprove the final plat and require the improvements to be changed at the subdivider's expense.

At least 15 business days prior to the meeting at which it is to be considered, the subdivider shall submit ten reproductions of the final plat at a scale of one inch equals 100 feet or one inch equals 200 feet to the city recorder/treasurer as agent for the city planning commission.

The city planning commission shall approve or disapprove the final plat within 60 days after it has been submitted in acceptable form. If the plat is disapproved, the grounds for disapproval shall be stated on the records of the planning commission. Upon approval, the city planning commission shall submit the plat with required signatures to the city council for approval by ordinance. The proposed ordinance shall be prepared by the developer.

Approval of the final plat by the city council shall provide for the acceptance by the public of the dedication of any street or other public way or ground. A certificate of acceptance of dedication shall be adopted by the city and attached to copies of the approved plat before filing and recording.

When the plat has been approved by the city council, a signed copy of the plat, with the approval of the city certified thereon, shall be filed with the county recorder as the official plat of record. One copy containing the certification of the city council shall be returned to the subdivider for his records. one copy each shall go to the planning commission, the Northwest Arkansas Regional Planning Commission, the tax assessor, the city water and sewer department, the street department, the building inspector, the gas company and the city recorder/treasurer for their records.

(Ord. No. 1970-4, § 2C)

#### 15.12.04. Informal plat.

When a property owner wishes to transfer large parcels of property or parts of recorded lots that do not require replotting, dedications, vacations, reservations, changes in alignment of easements or rights-of-way, or extension of utilities, then the planning commission may waive the preliminary plat and approve the final plat for filing with the county recorder. Approval must be signed by the chairman or secretary of the planning commission on the face of the plat.

(Ord. No. 1970-4, § 2D)

#### 15.12.05. Fees.

When the subdivider submits a plat to the planning commission he shall remit the following fees:

Preliminary plat	\$10.00
Final plat	\$1.00 per lot, up to \$25.00 maximum

(Ord. No. 1970-4, § 2E)

#### 15.12.06. Plat requirements.

The original plat shall be drawn in opaque waterproof ink on linen, mylar, or other reproducible material at a scale of one inch equals 100 feet or one inch equals 200 feet.

*Plat information.* The following information shall be submitted to the planning commission for a plat review and approval:

	Preliminary Plat	Engineer's Plans and Specifications	Final Plat	Informal Plat
<b>GENERAL</b>				
Name and address of owner, developer, engineer, surveyor, and person preparing the plat	X	—	X	X
Subdivision name, date, graphic scale, north arrow, acreage, and zoning districts	X	—	X	X
Location and description of all stakes and monuments	—	—	X	X
Legal description of the property with dimensions and angles sufficient to locate all lines on the ground. Lots and block shall be identified, boundaries shall be shown by distance, and property shall be located by	X	—	X	X

section, range and township and by corporate limits				
<b>EXISTING CONDITIONS</b>				
Original topography at 5-foot contour intervals where grades are over 10% along with water courses and rock outcroppings	X	—	X	X
Location and names of existing or platted streets and utility easements within or abutting the subdivision	X	—	X	X
Drainage plan with proposed cuts and fills	—	X	—	—
Location and dimension of all proposed lot lines, lot and block numbers, building lines, street lines, easements, dedications, and reservations	X	—	X	X
Radial and linear dimensions including angles, bearings and distances sufficient to reproduce the plat on ground	—	—	X	X
Proposed use of all land in the subdivision	X	—	—	—
Location and size of utility lines and drainage systems	—	X	X	—
<b>PROPOSALS</b>				
Location and size of any property to be dedicated or reserved with conditions for special uses	X	—	X	X
<b>INFORMATION TO SUPPLEMENT THE PLAT</b>				
Letter of transmittal	X	—	X	X
Vicinity sketch to show the relation of plat to streets and development surrounding the subdivision and other information requested by the planning commission	X	—	X	X
Plans of street and utility lines with profiles	—	X	X	X

Typical cross sections of streets	—	X	—	—
Protective covenants	X	—	X	X
Certificate of survey and accuracy by surveyor	X	—	X	X
Certificate of accuracy by the engineer	—	—	X	X
Certificate of ownership, title and dedication	—	—	X	X
Certificates of approval by the city planning commission	X	—	X	X
Certificate of approval of streets, easements, grading and drainage by the city engineer	—	—	X	X
Certificate of acceptance of dedications by the city council	—	—	X	X
Approval of sewer and water systems by state health department and/or city water and sewer department	—	—	X	X
Guarantees in lieu of improvements (bond or cash)	—	—	X	X

(Ord. No. 1970-4, § 2F)

## CHAPTER 15.16 IMPROVEMENTS

### 15.16.01. General provisions.

Before final plat approval may be granted by the planning commission, the subdivider shall have installed or shall have made provision to install, either at his expense or in accordance with the existing policy of the city, the following improvements, all of which must have prior approval by the planning commission.

(Ord. No. 1970-4, § 3)

### 15.16.02. Required improvements.

Two sets of required improvements are listed below. The requirements listed in (A) shall be installed in urban developments with lots smaller than 100 feet and 10,500 square feet in area that are on either individual sewer and/or individual water systems. All improvements shall be installed according to the standards specified by the city and approved by the city engineer.

	Urban A	Suburban B
--	------------	---------------

Reinforced concrete monuments 4" x 4" x 30' at quarter section corners and subdivision corners	x	x
Metal stakes ½" x 30" at all lot corners, points of tangency, points of curvature, and angles in property lines or segments	x	x
Street grading and base according to city requirements	x	x
Stabilized shoulders at least 4 feet wide and sodded drainage swale at least 5 feet wide and 12 inches deep with a slope of 3 to 1 on the street side and at least 2 to 1 on the other side		x
Curb and gutter	x	
Street paving	x	x
Sidewalks according to city standards	x	
Surface drainage. An adequate drainage system shall be provided for the proper drainage of all surface water. Cross drains shall be of sufficient length to permit full width roadways and the required natural slopes. The opening size of cross drains shall be determined by the city engineer using accepted methods and records available. Changes in natural drainage courses must be approved by the city engineer.	x	x
Culverts and bridges	x	x
Water supply. City system shall be built according to plans and specifications prepared by a licensed engineer and approved by the state board of health.	x	x
Private system shall be approved by the county sanitarian. Individual service lines must be installed before streets.	x	x
Street name signs	x	x

(Ord. No. 1970-4, § 3A)

**15.16.03. Guarantees in lieu of installed improvements.**

The planning commission may approve the final plat of a subdivision prior to the installation of all the required improvements if the subdivider:

- A. *Deposits cash or a surety bond.* Such deposits of cash or a surety bond with the city shall be in an amount equal to the estimated cost of the improvements as determined by the city engineer and city council for the entire subdivision or portion thereof. Upon satisfactory completion of the improvements, the subdivider may withdraw any deposit made.

(Ord. No. 1970-4, § 3B)

#### **15.16.04. Maintenance guarantee.**

An acceptable maintenance bond shall be provided in the amount of the contract price of the improvement against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The bond shall be filed with the city treasurer prior to the acceptance of the improvements by the city.

(Ord. No. 1970-4, § 4C)

#### **15.16.05. Conditions of acceptance.**

The city shall not have any responsibility with respect to any street, or other improvements, notwithstanding the use of the same by the public, unless the street or other improvement shall have been accepted by the city.

Prior to requesting final acceptance of streets and sanitary and storm sewers, the developer shall furnish "as built" drawings on linen, mylar, or similar reproducible material.

The city shall, within 30 days after the public improvements have been offered for dedication to the city, accept the improvements provided the improvements have been constructed in accordance with the requirements and conditions of this chapter and the specifications of the city. The developer shall furnish proof that all improvements are free of lien and debts.

(Ord. No. 1970-4, § 3D)

### **CHAPTER 15.20 DESIGN STANDARDS**

#### **15.20.01. Variations.**

If any provisions of these standards are shown by the subdivider to cause undue hardship as they apply to his proposed subdivision, the city planning commission may grant a variance to the subdivider from such provisions, so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of this chapter.

In granting variances and modifications, the planning commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Ord. No. 1970-4, § 4A)

#### **15.20.02. Conformity.**

The subdivision shall conform to the official plans and regulations that make up the comprehensive plan including the land use plan, the street plan, access controls, set-back ordinances, the community facilities plan, and the zoning ordinance. After the preliminary plat is submitted but before the final plat is approved, the planning commission may require the subdivider to reserve sites within the boundaries of the proposed subdivision which are indicated on an officially adopted plan for public use to permit the public board, commission or body having jurisdiction or financial responsibility the opportunity to acquire said sites.

The subdivider at his option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved. The planning commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for arterial streets.

(Ord. No. 1970-4, § 4B)

**15.20.03. Fitness for development.**

Based on topographic maps, soil surveys prepared by the department of agriculture, the drainage information from the comprehensive plan, the planning commission may require that steep grades, unstable soil, and flood plains be set aside and not subdivided until corrections are made to protect life, health and property.

(Ord. No. 1970-4, § 4C)

**15.20.04. Street design principles.**

*Access:* Adequate vehicular and pedestrian access should be provided to all parcels.

*Access control:* Local streets and driveways should not detract from the efficiency of bordering arterial routes.

*Economy:* A minimum amount of space should be devoted to street uses.

*Extensions:* All street extensions shall be projected at the same or greater width, but in no case less than the standards.

*Pedestrians:* Pedestrian-vehicular conflict points should be minimized.

*Speed:* Local streets should be designed to discourage excessive speeds.

*Street names:* Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names must be used which will not duplicate or be confused with existing names.

*Street pattern:* The arrangement of local streets should permit economical and practical patterns, shapes and sizes of development parcels.

*Substandard widths:* Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum widths listed.

*Tangents:* A straight tangent at least 100 feet long shall separate reverse curves.

*Through traffic:* Local street systems should be designed to minimize through traffic movements.

*Topography:* Local streets should be related to topography.

*Traffic control:* There should be a minimum number of intersections.

STANDARDS FOR STREET DESIGN				
<i>Local Streets</i>				
	<i>Ordinary</i>		<i>Hilly</i>	
	<i>Urban</i>	<i>Rural</i>	<i>Urban</i>	<i>Rural</i>
Density	300'—1400'	300'—1400'	300'—1400'	300'—1400'
Spacing	50'	60'	50'	60'
Pavement Width	28'	22'	28'	22'
Border	Vertical curb & gutter	8' shoulders & swales or roll curb	Vertical curb & gutter	8' shoulders & swales or roll curb
Off-street parking	One side	None	None	None
Sidewalk	One side	None	One side	None
Maximum grade	10%	10%	12%	12%
Dead-end streets				
Length	500	1000	500	1000

Radius (ROW)	50	50		
Design speed	25	30	20	25
Sight distance at centerline	250	250	110	110
Intersection to curb cut	40'	40'	50'	50'
Between curb cuts	25'	25'	25'	25'
Street lighting	Yes		Yes	
<i>Collector Streets</i>				
	<i>Urban</i>	<i>Rural</i>	<i>Urban</i>	<i>Rural</i>
Density	300'—1400'	300'—1400'	300'—1400'	300'—1400'
Spacing	64'	80'	64'	80'
Pavement Width	44'	30'	44'	30'
Border	Vertical curb & gutter	8' shoulders & swales or roll curb	Vertical curb & gutter	8' shoulders & swales or roll curb
Off-street parking	Both sides	None	None	None
Sidewalk	Both sides	One side	Both sides	One side
Maximum grade	6%	6%	10%	10%
Dead-end streets				
Length				
Radius (ROW)				
Design speed	30	35	25	30
Sight distance at centerline	350	350	150	150
Intersection to curb cut	50'	50'	60'	60'
Between curb cuts	30'	30'	30'	30'
Street lighting	Yes		Yes	

(Ord. No. 1970-4, § 4D)

**15.20.05. Intersections.**

	Ordinary	Hilly
Approach speed	25mph	20mph
Sight distance	90 ft	70 ft
Maximum grades within 100 feet of intersection	4%	4%
Minimum angle	75 degrees	75 degrees
Minimum Property Line Radius at street intersections		
Minor street	25 ft	25 ft
Collector street	50 ft	50 ft
Minimum Curb Radius		
Minor street	25 ft	25 ft
Collector street	50 ft	50 ft
Minimum jogs		

Minor street	150 ft	150 ft
Collector street	200 ft	200 ft

(Ord. No. 1970-4, § 4E)

**15.20.06. Residential blocks.**

*Width:* Blocks shall be two tiers of lots wide, except where topography, highways, railroads, utility lines or other physical features will not permit it.

*Length:* Blocks shall be at least 400 feet long, but no longer than 1,400 feet.

(Ord. No. 1970-4, § 4F)

**15.20.07. Easements.**

Easements at least 20 feet wide shall be centered along rear lot lines and along side lot lines where needed to provide for utility lines and surface drainage. The planning commission may require larger easements for major utility lines, unusual terrain or drainage problems.

(Ord. No. 1970-4, § 4G)

**15.20.08. Residential lots.**

The use and design of lots shall conform to the provisions of the zoning ordinance where zoning is in effect. Where no zoning applies the following standards shall:

*Minimum standards:*

	Urban	Rural
Area	8,000	10,500
Width	70	100
Front yard	25	25
Side yard	10	10
Rear yard	20	20

*Size:* The size and shape of the lots shall not be required to conform to any stipulated pattern but, insofar as practicable, side lot lines should be at right angles to straight street lines or radial to curved street lines. when a tract of land is subdivided into larger than normal lots, such lots shall be so arranged as to permit the logical location and opening of future streets and appropriate re-subdivision of the lots, with provision for adequate utility connections for such re-subdivision.

**15.20.09. Large-scale development.**

A development plan shall be submitted to the planning commission for any special developments larger than one acre, such as residential subdivisions with apartments and row houses, shopping centers, mobile home parks, industrial sites, or recreation areas whether they are subdivided into lots or not. Individual lots for single-family homes in A-1 districts are excluded from this rule. The plan shall show:

The location of buildings, outdoor advertising and improvements on the lots;

The location, size and arrangement of curb cuts, driveways, parking and loading areas;

The proposed storm drainage, landscaping, planting and grading changes;

The proposed utility lines and easements;

The proposed dedications or vacations;

Planned developments are to be reviewed on their individual merits upon specific application of a developer. Any conflicting regulations herein may be waived to carry out the intent of the comprehensive plan.

A. *Preliminary submission.* The sponsor shall submit the following material, during the preparation of which the sponsor is encouraged to keep the commission informed of his progress and to consult with them if any questions or problems arise. Such consultation will speed the process of approval.

1. *Drawings.* (Note: Sheet sizes should be no larger than 24 inches by 36 inches except where the indicated minimum scales require a larger sheet.)

Site plan showing existing features; contours at five-foot intervals, location and diameter of all trees six inches in diameter and larger, location of watercourses, ponds, and streams, existing structures and roads, and any other features, such as large rock outcroppings, which may be distinctive or unusual on a particular site. Scale: one equals 100 feet or larger. Site sections sufficient to indicate the major site profiles, presented at same scale as site plan.

An architectural site plan showing proposed streets, lot sizes and shapes, parking, curb cuts, all pedestrian ways, placements of buildings on lots, community facilities, and open space location and treatment. Scale: One inch equals 100 feet or larger.

Drawings or models indicating the three dimensional character of the proposal in an accurate way. The drawings may be perspectives, sections, elevations, axonometrics, or isometrics in any combination, or at any scale, that is appropriate for communicating the character of the proposal. (Required only where new or altered street plan is included on proposal submission.) Preliminary street and drainage plans, showing alignment of streets and direction of flow of storm and drainage plan exits, it should be submitted for purposes of comparison.

2. *Written material.* In addition to the drawings, other pertinent information about sponsor's proposal must be submitted in preliminary form:

Statistical summary of proposal, including: gross site area; street length; net site area; number of each variety of dwelling unit and total number of dwelling units; floor area per dwelling, unit type and total floor area; common open space area and total open space area; and number of rooms per dwelling, unit type and total number of rooms.

*Staging plan.* a general time schedule of expected completion dates of elements of plan.

*Financial plan.* A general description of intended means of financing the development.

Size and scope of shopping facilities, if any.

Size and scope of any other community facility.

Preliminary ownership and maintenance plan of common open space if any.

Certification of ownership of property.

Within 45 days of receipt of a complete preliminary submission, the commission will tell the sponsor whether a final submission is encouraged.

At this time also, the commission will make known any conditions to be included in the final submission, such as allowance for community facilities or the need to accommodate street plans to those of adjacent areas. Also, the commission may request that certain documents be submitted to the commission to facilitate coordination with other city agencies.

B. *Final submission.* The sponsor's final proposal shall include all the following material.

1. *Drawings.* All the drawings from the preliminary submission must be resubmitted in an up-to-date form. In addition, where street and drainage plans are new or altered, complete drawings conforming to the requirements of the city planning commission and other appropriate city agencies must be submitted at this time.
2. *Written material.* All schedules and documents called for in the preliminary submission must be submitted in final form.

It is intended that, by the time the final submission is made, the commission and staff will have been adequately informed during the development of final documents so that the final response period may be minimized; and so that any problems which may have arisen can be resolved during preparation of final documents.

Within 45 days of receipt of a completed final submission the commission will take appropriate action: normally, either granting administrative approval or fixing a public hearing. Where the latter action is appropriate, the commission will move expeditiously to hold the hearing and make its report to the city council.

In the event that a sponsor subsequently wishes to make minor changes to an approved development, such modifications shall be submitted to the commission in a form which compared with approved submission. The commission may authorize such minor modifications without public hearings or city council action. Minor changes generally may be construed to mean substitutions of one approved house type for another, or minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space, or rooms per acre are not increased.

Any substantial changes from an approved plan will be subject to the same procedure as new submissions.

(Ord. No. 1970-4, § 4I)

## **CHAPTER 15.24 ADMINISTRATION**

### **15.24.01. Interpretation.**

When a developer or property owner disagrees with an interrelation of these regulations by the planning commission, it may be appealed to the city council for a decision.

(Ord. No. 1970-4, § 5A)

### **15.24.02. Appeal.**

In the event the plat as submitted by the applicant is disapproved by the planning commission the applicant may petition the city council for a review of the plat vote. The council may sustain the disapproval of the commission or refer the plat back to the planning commission for restudy and for such action as may be consistent with the requirements of these regulations.

(Ord. No. 1970-4, § 5B)

### **15.24.03. Enforcement.**

In order to carry out the purposes of these regulations and to assure an orderly program of land development after the effective date of these regulations:

- A. No plat of any tract of land within the planning area jurisdiction of the planning commission shall be accepted by the county recorder for filing unless the plat had been approved by the planning commission.

- B. No conveyance by metes and bounds of tracts coming under the definition of subdivision without compliance with the applicable provisions of this chapter or amendments thereto shall be permitted. This provision is aimed at preventing any attempt to circumvent these regulations by conveying by metes and bounds without taking the necessary steps for filing an approved plat.
- C. No dedication of streets shall be accepted by the city unless the use of the adjoining affected land is shown; if the purpose of opening the street is to make the affected land available for sale as a subdivision, the street may not be accepted until accompanied by the required plat.
- D. No building permit shall be issued for construction of any building; no person, firm or corporation shall sell or offer for sale any lot; no water, sewer, gas or electric service shall be extended to serve any structure on any lot; nor shall any land be accepted for dedication by the county recorder unless:
  - 1. The lot, building or structures as established before the adoption of the ordinance from which this chapter is derived;
  - 2. The lot is part of a subdivision approved by the planning commission.

#### **15.24.04. Amendments.**

On any proposed amendments to these regulations, the planning commission shall hold a public hearing, for which 15 days advance notice in a local newspaper of general distribution has been published. Following such a hearing, the city council may adopt the amendment or amendments as recommended by the planning commission or as determined by a majority vote of the city council.

(Ord. No. 1970-4, § 5)

## CODE COMPARATIVE TABLE LEGISLATION

This table gives the location within this Code of those ordinances adopted since Ord. No. 2021-29 on September 20, 2021, which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
2021-29	9-20-2021	2	7.36.03(B)
2021-30	9-20-2021	2 Rpld	3.04.01— 3.04.11
		Added	3.04.01— 3.04.10

## STATE LAW REFERENCE TABLE

This table shows the location within this Code, either in the text or notes following the text, of references to Arkansas Code Annotated.

A.C.A. Section	Section this Code
5-64-101—5-64-608	7.04.04
8-7-1405	5.08.15
12-12-103	4.24.01
13-2-501	2.48.01
	2.48.02
14-14-901	5.24.02
14-14-910	4.28.03
	5.24.03
14-42-110	2.28.02
	2.32.05
14-43-312	2.12.05
14-43-316(a)	2.16.01
14-43-405(a)(1)	2.18.01
14-43-405(a)(2)	2.18.02
14-43-502	2.12.02
14-43-506(a)	2.16.02
14-43-506(b)	2.18.04
14-54-302	3.04.07
14-54-904	11.36.09
14-55-206	1.40.01
14-55-301	1.36.04
14-55-304	1.36.01
14-55-501	7.04.01
14-55-501 et seq.	1.32.01
14-55-502	7.04.02
14-55-701 et seq.	1.04.01
14-58-104	3.04.01
14-58-105	3.04.06
14-58-303	3.04.03
14-58-303(b)(3)	3.04.04
14-266-101 et seq.	4.28.03
16-13-709	2.20.09

19-11-229	3.04.03
19-11-234	3.04.03
19-11-801(c)	3.04.08
20-19-301	6.04.05
tit. 22, ch. 9	3.04.05
22-706-9	2.21.03
25-20-101 et seq.	4.28.03
26-52-101 et seq.	3.12.01
26-53-101 et seq.	3.12.01
27-50-401	2.20.04
tit. 27, ch. 51	8.04.01
	8.04.02