

## PART 8

### HEALTH AND SANITATION

#### CHAPTER 1

##### WEEDS AND TRASH

Section 8-101	Accumulation of Trash or Weeds Unlawful.
Section 8-102	Definitions.
Section 8-103	Reports of Accumulation of Grass, Weeds, or Trash on Property.
Section 8-104	Weeds and Trash; Abatement.
Section 8-105	Work Done by Employees or Contract.
Section 8-106	Determination and Assessment of Costs.
Section 8-107	Lien on Property, Civil Remedy.
Section 8-108	Service of Notice.
Section 8-109	Unlawful to Deposit Rubbish.
Section 8-110	Burning Refuse.
Section 8-111	Removal of Dead Animals.
Section 8-112	Unlawful to Litter.
Section 8-113	Unlawful to Litter from Automobiles.
Section 8-114	Litter not to Accumulate on Property.
Section 8-115	Penalty.

#### CHAPTER 2

##### FOOD REGULATIONS

Section 8-201	U. S. Food Service Sanitation Ordinance Adopted.
Section 8-202	Milk Ordinance Adopted.
Section 8-203	Grade Requirements.
Section 8-204	Violation; Penalty.

Health and Sanitation

**CHAPTER 3**

**NUISANCES**

- Section 8-301 Nuisance Defined; Public Nuisances; Private Nuisances.
- Section 8-302 Persons Responsible.
- Section 8-303 Time does not Legalize.
- Section 8-304 Remedies Against Public Nuisances.
- Section 8-305 Remedies Against Private Nuisances.
- Section 8-306 Town has Power to Define and Summarily Abate Nuisances.
- Section 8-307 Certain Public Nuisances in Town Defined.
- Section 8-308 Summary Abatement of Nuisances.
- Section 8-309 Abatement by Suit in District Court.
- Section 8-310 Nuisance Unlawful.
- Section 8-311 Health Nuisances; Abatement.
- Section 8-312 Toilet Facilities Required; Nuisance.
- Section 8-313 Procedure Cumulative.

**CHAPTER 4**

**ENFORCEMENT AND PENALTY**

- Section 8-401 County Health Department Designated to Enforce Health Ordinances.
- Section 8-402 Obstructing Health Officer.
- Section 8-403 Quarantine; Violations.
- Section 8-404 Penalty.

**CHAPTER 5**

**TOBACCO REGULATIONS**

- Section 8-501 Regulation of Smoking in Public places
- Section 8-502 Youth Access to Tobacco

CHAPTER 3

NUISANCES

Section 8-301	Nuisance defined; public nuisances; private nuisances.
Section 8-302	Persons responsible.
Section 8-303	Time does not legalize.
Section 8-304	Remedies against public nuisances.
Section 8-305	Remedies against private nuisances.
Section 8-306	Town has power to define and summarily abate nuisances.
Section 8-307	Certain public nuisances in the town defined.
Section 8-308	Summary abatement of nuisances.
Section 8-309	Abatement by suit in district court.
Section 8-310	Nuisance unlawful.
Section 8-311	Health nuisances; abatement.
Section 8-312	Toilet facilities required; nuisance.
Section 8-313	Procedure cumulative.

SECTION 8-301      NUISANCE DEFINED; PUBLIC NUISANCES; PRIVATE NUISANCES.

A. A nuisance is unlawfully doing an act or omitting to perform a duty or is any thing or condition which either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
4. In any way renders other persons insecure in live or in the use of property.

B. A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

C. Every nuisance not included in Subsection B above is a private nuisance.

State Law Reference: Nuisances defined, municipal powers to abate, 50 O.S. Sections 1 et seq.

SECTION 8-302      PERSONS RESPONSIBLE.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

SECTION 8-303      TIME DOES NOT LEGALIZE.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

SECTION 8-204      VIOLATION; PENALTY.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

## CHAPTER 2

## FOOD REGULATIONS

Section 8-201	U.S. food service sanitation ordinance adopted.
Section 8-202	Milk ordinance adopted.
Section 8-203	Grade requirements.
Section 8-204	Violation; penalty.

SECTION 8-201      U.S. FOOD SERVICE SANITATION ORDINANCE ADOPTED.

A. The unabridged form of the latest edition of the "United States Public Health Service Food Service Sanitation Ordinance and Code" is hereby adopted and incorporated in this code by reference. Three (3) copies of the sanitation ordinance and code shall be on file in the office of the town clerk. The sanitation ordinance and code shall govern the definitions, inspection of food service establishments, the issuance, suspension and revocation of permits to operate food service establishments, the prohibiting of the sale of adulterated or misbranded food or drink and the enforcement of this section. In the sanitation ordinance and code, however, all parenthetical phrases referring to grading and the following subsections shall be understood to be deleted: Subsection H.2.e., H.7 and H.8.

B. "Health Authority" shall mean the director of the county health department of this county or his designated representative.

C. Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1-108 of this code. In addition thereto, any person convicted of violation may be enjoined from continuing the violation.

State Law Reference: State food regulations, 63 O.S. Sections 1-1101 et seq.

SECTION 8-202      MILK ORDINANCE ADOPTED.

Part II of the Grade A Pasteurized Milk Ordinance 1965, recommended by the U.S. Public Health Service, is hereby adopted and incorporated by reference to govern and regulate the production, transportation, processing, handling, sampling, examination, grading, labeling and sale of milk and milk products sold for ultimate consumption within the town limits or its police jurisdiction; the inspection of dairy farms, dairy herds and milk plants; the issuing and revocation of permits to milk producers, haulers and distributors. At least three (3) copies of the Pasteurized Milk Ordinance shall be filed in the office of the appropriate official. Sections 9, 16 and 17 of the abridged ordinance shall be replaced, respectively by Sections 8-203 and 8-204 of this code.

State Law Reference: State laws regulating milk standards, 63 O.S. Sections 1-1301 et seq.; manufacture of milk, 2 O.S. Sections 7-1 et seq.

SECTION 8-203      GRADE REQUIREMENTS.

Only grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments; provided that in an emergency, or the grade which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded."

## Health and Sanitation

### SECTION 8-113 UNLAWFUL TO LITTER FROM AUTOMOBILES.

It is unlawful for any person to throw from any automobile or motor vehicle being operated and driven upon and over the streets, alleys, and roadways of the Town any litter, trash, waste paper, tin cans, or any other substance or refuse whatsoever.

### SECTION 8-114 LITTER NOT TO ACCUMULATE ON PROPERTY.

A. It is unlawful for any person, firm, or corporation, occupying any real property, either as tenant or owner, to allow trash, waste paper, litter objects, bottles, tin cans, or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.

B. It is unlawful for any person, firm, or corporation occupying any real property, either as tenant or owner, to allow accumulated trash, waste paper, litter objects, bottles, tin cans, or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements, or otherwise to any adjoining or other real estate not so owned or occupied by the offender.

### SECTION 8-115 PENALTY.

Any person, firm, or corporation found violating any provision of this Chapter shall, upon conviction, be deemed guilty of a misdemeanor, and shall be fined as provided in Section 1-108 of this Code.



## Health and Sanitation

### SECTION 8-108 SERVICE OF NOTICE.

The service of all notices prescribed by this chapter shall be evidenced by the return of the officer making such service, certified in his official capacity, and filed in the office of the Town Clerk.

### SECTION 8-109 UNLAWFUL TO DEPOSIT RUBBISH.

It is unlawful for any person to throw, place, or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trash, brush, or any other refuse or waste matter in any street, avenue, alley, or in any ditch or watercourse, or upon the premises of another, or upon any public ground of this Town.

### SECTION 8-110 BURNING REFUSE.

A. It is unlawful to wilfully burn any trash or refuse, or any type of material within the Town.

B. It is unlawful for any person to burn trash, waste paper, rubbish, or refuse except under a permit issued by the State Health Department or U. S. Environmental Protection Agency.

### SECTION 8-111 REMOVAL OF DEAD ANIMALS.

The owner or any person having charge of any animal dying in this Town shall, within twenty-four (24) hours after the death of such animal, remove its carcass; and failure to do so shall constitute a misdemeanor.

### SECTION 8-112 UNLAWFUL TO LITTER.

A. Littering is defined as throwing any trash, refuse, waste paper, tin can, bottles, or any other object or substance whatsoever upon the public streets, alleys, roadways, and sidewalks of the Town, or upon any real property owned or occupied by another.

B. It is unlawful for any person to litter.



## Health and Sanitation

7. At any time prior to the collection, as provided herein, the Town may pursue any civil remedy for collection of the amount owing and interest thereof. Upon receiving payment, if any, the Town Clerk shall forward to the County Treasurer a notice of the payment and directing discharge of lien.

### SECTION 8-105 WORK DONE BY EMPLOYEES OR CONTRACT.

The work ordered to be performed under Section 8-102 of this code may be done by the employees of this Town under supervision of the Town utility or sanitation department, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts.

### SECTION 8-106 DETERMINATION AND ASSESSMENT OF COSTS.

Upon the completion of the work ordered to be performed under Section 8-103 of this Code, the Town Clerk shall report the cost thereof to the Town Board. Such report shall be itemized as to each tract of property involved as follows: labor, machinery rental or depreciation, fuel and supplies, cost of notice, other costs and indirect costs of five percent (5%) of direct actual costs. The Board shall examine the report and, after receiving appropriate information, shall determine the total cost of the work. The Board shall direct the Town Clerk to forward a statement and demand for payment of the total cost by certified mail with return receipt requested to the owner of the property at the address shown by the current tax rolls in the Office of the Treasurer of the County in which the property lies.

### SECTION 8-107 LIEN ON THE PROPERTY, CIVIL REMEDY.

If the costs of the work performed under this Chapter are not paid within thirty (30) days from the date of mailing the notice prescribed by Section 8-104 hereof, the Town Clerk shall forward a certified statement of the amount of the costs to the County Treasurer of the County in which the property upon which the work was done is located, in order that the amount be levied upon the property and be collected by the County Treasurer in the manner prescribed by law of this State. The lien is co-equal with the lien of ad-valorem taxes and all other taxes and special assessments, and prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At any time prior to collection as provided in this section the Town may pursue any civil remedy for collection of the amount owing and interest thereof. Upon receiving payment, if any, the Town Clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien.

## Health and Sanitation

- a. At least ten (10) days prior to hearing on determination of the nuisance; and notice of the intended abatement and hearing before the Town Administrator, or his or her designee, shall be given to the owner of the property by certified mail with return receipt requested at the address shown on the current year's tax rolls in the County Treasurer's Office.
  - b. A copy of the notice of the hearing on determination of the nuisance shall be posted in prominent view on the property at least ten (10) days prior to the hearing, and a copy of the notice shall be published in the Kingfisher Times at least ten (10) days prior to the hearing.
2. The owner of the property may give his or her written consent to the Town authorizing the removal of the trash, the mowing of weeds or grass, or other nuisances. By giving the written consent to the owner waives his or her right to a hearing by the Town.
  3. If the Town Administrator, or his or her designee, finds the condition of the property constitutes a detriment or hazard and that the property would be benefitted by the removal of the conditions, the Town Administrator shall direct the clearing or cleaning be done:
    - a. By the Town employee; or,
    - b. On a private contract basis, in which case it shall be awarded to the lowest and best bidder.
  4. After the property has been cleaned, the Town Administrator, or his or her designee, shall determine the actual cost of the cleaning and any other expenses as may be necessary in connection therewith, include the cost of notice and mailing. The Town Clerk shall forward, by certified mail with return receipt requested, to the property owner at the address specified in subsection 1 above, a statement of the actual costs and demanding payment.
  5. If payment is not made within thirty (30) days from the date of the mailing of the statement, the Town Clerk shall forward a certified statement of the amount of the cost to the County Treasurer. The Town shall have a lien on the property for the costs together with the interest thereof.
  6. The property owner shall have a right of appeal to the Board of Trustees from any order of the Town Administrator, or his or her designee, issued pursuant to this section by filing written notice of appeal with the Town Clerk within ten (10) days after the administrative order is rendered.

## Health and Sanitation

- b. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;
- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased.

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

2. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which is uncared for, discarded, or abandoned.
3. "Owner" means the owner of record as shown by the most current tax rolls of the County Treasurer.

### SECTION 8-103 · REPORTS OF ACCUMULATION OF GRASS, WEEDS, OR TRASH ON PROPERTY.

Any officer or employee of the Town who discovers an accumulation of trash, or the growth of grass and weeds, or both of these conditions, upon any premises within the limits of the Town shall report the condition to the Town Clerk if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit, and welfare of the public and the community;
2. A hazard to traffic;
3. A fire hazard to property; or,
4. Any two (2) or more of these conditions.

### SECTION 8-104 WEEDS AND TRASH; ABATEMENT.

The Town Administrator is hereby authorized to cause any of the nuisances defined herein to be abated in accordance with the following procedures:

1. The Town Administrator, or his or her designee, may determine whether the accumulation of trash, growth of weeds or grass, or other nuisances has caused the property to become detrimental to the health, benefit, and welfare of the public and the community, or a hazard to traffic, or creates a fire hazard to the danger of the property in accordance with the following procedures:

Health and Sanitation

CHAPTER 1

WEEDS AND TRASH

Section 8-101	Accumulation of Trash or Weeds Unlawful.
Section 8-102	Definitions.
Section 8-103	Reports of Accumulation of Grass, Weeds, or Trash on Property.
Section 8-104	Weeds and Trash; Abatement.
Section 8-105	Work Done by Employees or Contract.
Section 8-106	Determination and Assessment of Costs.
Section 8-107	Lien on Property, Civil Remedy.
Section 8-108	Service of Notice.
Section 8-109	Unlawful to Deposit Rubbish.
Section 8-110	Burning Refuse.
Section 8-111	Removal of Dead Animals.
Section 8-112	Unlawful to Litter.
Section 8-113	Unlawful to Litter from Automobiles.
Section 8-114	Litter not to Accumulate on Property.
Section 8-115	Penalty.

SECTION 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

It is unlawful for any power or occupant of any lot, tract, or parcel of land situated wholly or in part within the corporate limits of the Town to allow trash or weeds to grow, stand, or accumulate upon such premises. It is the duty of such owner or occupant to remove or destroy any such trash or weeds.

SECTION 8-102 DEFINITIONS.

As used in this Chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Weeds" includes, but is not limited to, poison ivy, poison oak or poison sumac, and all vegetation at any stage of maturity which:
  - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption or own in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit, and welfare of the public and community of a hazard to traffic or create a fire hazard to the property, or otherwise interfere with the mowing of the weeds;

SECTION 8-304      REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;
2. Prosecution on information or indictment before another appropriate court;
3. Civil action; or
4. Abatement:
  - a. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
  - b. By the town in accordance with law or ordinance.

SECTION 8-305      REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
  - a. By person injured as provided in Sections 14 and 15 of Title 50 of the Oklahoma Statutes; or
  - b. By the town in accordance with law or ordinance.

SECTION 8-306      TOWN HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES.

As provided in Section 16 of Title 50 of the Oklahoma Statutes, the town has power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the town has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done.

SECTION 8-307      CERTAIN PUBLIC NUISANCES IN THE TOWN DEFINED.

In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be public nuisances:

1. The sale or offering for sale of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;
2. The sale, offering for sale or furnishing of intoxicating liquor in violation of the state law or ordinances of the town; or keeping of a place where intoxicating liquor is sold, offered for sale or furnished in violation of the state law or ordinance of the town;

3. The exposure, display, sale or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;
4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;
5. The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced;
6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
7. The conduct or holding of public dances in violation of the ordinances of the town; or the keeping of a place where such dances are held;
8. The public exposure of a person having a contagious disease;
9. The continued making of loud or unusual noises which annoy persons or ordinary sensibilities; or the keeping of an animal which makes such noises;
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;
12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety;
14. Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs; and the premises on which such exist;
15. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
16. Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
17. Any fire or explosion hazard which endangers the public safety;
18. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
19. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate as required by law for vehicles used on the public highways, when stored or kept in a residence district; or

20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of the town, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation, is hereby declared to be a nuisance.

The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms.

SECTION 8-308      SUMMARY ABATEMENT OF NUISANCES.

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the mayor or other appropriate officer or agency of the town government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. The chief of the fire department, the chief of police, the town attorney, the building inspector, the electrical inspector, the plumbing inspector or any other officer subordinate to the mayor may submit through or with the consent of the mayor to the town board of trustees, a statement as to the existence of a nuisance as defined by the ordinances of the town of law, and a request or recommendation that it be abated. The mayor himself, the health officer and board of trustees or any resident or residents of the town may submit such a statement and request a recommendation to the board of trustees.

C. The board of trustees shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the board of trustees shall have power to subpoena and examine witnessed, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the board of trustees shall give notice of a hearing on the proposed abatement to the owner of any property concerned and an adequate opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names or addresses are not known, and the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the town.

D. If the board of trustees finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the board of trustees shall direct the mayor to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by Section 16 of Title 50 of the Oklahoma Statutes. The town clerk shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the town collectible as other debts to the town may be collected.

SECTION 8-309      ABATEMENT BY SUIT IN DISTRICT COURT.

In cases where it is deemed impractical summarily to abate a nuisance the town may bring suit in the district court of the county where the nuisance is located, as provided in Section 17 of Title 50 of the Oklahoma Statutes.

SECTION 8-310      NUISANCE UNLAWFUL.

It is unlawful for any person, including but not limited to any owner, leasee, or other person to create or maintain a nuisance within the town or to permit a nuisance to remain on premises under his control within the town.

SECTION 8-311      HEALTH NUISANCES; ABATEMENT.

A. Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes, the health officer shall have authority to order the owner or occupant of any private premises in the town to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a policeman or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises or by publication in at least one issue of a newspaper having a general circulation in the town.

B. If the order is not complied with, the health officer may cause the order to be executed and complied with and the cost thereof shall be certified to the town clerk, and the cost of removing or abating such nuisance shall be added to the water bill or other town utility bill of the owner or occupant if he is a user of water from the town water system or such other utility service. The cost shall be treated as a part of such utility bill to which it is added and shall become due and payable, and subject to the same regulations relating to delinquency in payment as the utility bill itself. If such owner or occupant is not a user of any town utility service, such cost, after certification to the town clerk, may be collected in any manner in which any other debt due the town may be collected.

SECTION 8-312      TOILET FACILITIES REQUIRED; NUISANCE.

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

1. "Human excrement" means the bowel and kidney discharge of human beings;
2. "Sanitary water closet" means the flush type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times; and
3. "Sanitary pit privy" means a privy which is built, rebuilt or constructed so as to conform with the specifications approved by the state health department.



B. Every owner of a residence or other building in which humans reside, are employed or congregate within this town shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet or a sanitary pit privy. The closets and toilets hereby required shall be of the sanitary water closet type when located within two hundred (200) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system or the pit privy type. A septic tank system or a pit privy may be used in such cases only if it meets the standards of and is approved by the state health department.

C. All human excrement disposed of within this town shall be disposed of by depositing it in closets and privies of the type provided for in the section. It is unlawful for any owner of property within the town to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement within the town in any other manner.

D. All privies shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery or other serious bowel disease shall be deposited in any sanitary pit privy or sanitary water closet until it is disinfected in such a manner as may be prescribed by the health officer.

E. All facilities for the disposal of human excrement in a manner different from that required by this section and all privies and closets so constructed, situated or maintained as to endanger the public health, are hereby declared to be public nuisances, and may be dealt with and abated as such. Any person maintaining any such nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense.

SECTION 8-313      PROCEDURE CUMULATIVE.

The various procedures for abating nuisances prescribed by this chapter and by other provisions of law and ordinance shall be cumulative on to any other penalties or procedures authorized.



CHAPTER 4

ENFORCEMENT AND PENALTY

- Section 8-401 County health department designated to enforce health ordinances.
- Section 8-402 Obstructing health officer.
- Section 8-403 Quarantine; violations.
- Section 8-404 Penalty.

SECTION 8-401 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it shall be construed to mean the director of the county health department or his duly designated representative. It is the intent and purpose of the mayor and town board of trustees to delegate the enforcement of the health ordinances of this town as set out in this section and any such decisions rendered under this section shall be subject to review by the governing board upon an appeal from an offender.

SECTION 8-402 OBSTRUCTING HEALTH OFFICER.

It is unlawful for any person to wilfully obstruct or interfere with any health officer or physician charged with the enforcement of the health laws of this town.

SECTION 8-403 QUARANTINE; VIOLATIONS.

It is unlawful for any person to wilfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.

SECTION 8-404 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations.



Health and Sanitation

CHAPTER 5

TOBACCO PRODUCTS

Section 8-501 Smoking in Public Places

Section 8-502 Youth Access to Tobacco

Section 8-501

Smoking in Public Places and Indoor Workplaces

DEFINITIONS

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

- (a) *Indoor workplace* means any Indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed;
- (b) *Electronic smoking device* means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. Electronic smoking device includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor;
- (c) *Outdoor area* means any covered area, partially covered area or area open to the sky that is on a property owned by the city.
- (d) *Public place* means any enclosed indoor area where individuals other than employees are invited or permitted; the term is synonymous with the phrase any indoor place used by or open to the public;

- (e) *Restaurant* means any eating establishment regardless of seating capacity;
- (f) *Recreational area* means any area that is owned, controlled or used by the Town of Cashion and open to the general public for recreational purposes, regardless of any fee or age requirement, The term 'Recreational! Area' includes but is not limited to parks) picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails. swimming pools, roller- and ice-skating rinks, beaches surrounding lakes and skateboard parks.
- (g) *Smoking* means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device;
- (h) *Stand-alone bar, stand-alone tavern, and cigar bar* mean an establishment that derives more than 60 percent of its gross receipts, subject to verification by competent authority, from the sale of alcoholic. beverages and low-point beer and no person under 21 years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace. including a restaurant; and
- (i) *Tobacco product* means any substance containing tobacco leaf, including but not limited to cigarettes, cigars. pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snuff, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold. offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body. "Tobacco Product" does non. include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine Of tobacco dependence.

PROHIBITION OF TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES IN CERTAIN PLACES PROHIBITED

- (a) The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, public transportation, or any indoor workplace: except where specifically allowed bylaw.
- (b) All buildings and other properties, including indoor and outdoor areas, owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including electronic smoking devices.
- (c) All indoor and outdoor recreational areas owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including electronic smoking devices.

## EXEMPTIONS

The restrictions provided in this Ordinance shall not apply to the following;

- (a) stand-alone bars, stand-alone taverns and cigar bars;
- (b) the room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
- (c) up to 25 percent of the guest rooms at a hotel or other lodging establishment;
- (d) retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in
- (e) workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any 'work in the workplace, and the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;
- (f) workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access;
- (g) private offices occupied exclusively by one or more smokers;
- (h) private residences and workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
- (i) medical research or treatment centers, if smoking is integral to the research or treatment;
- (j) a facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code. 26 U.S.C., Sections 501 (c)(8), 501 (c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public; and
- (k) any outdoor seating area of a restaurant; provided, smoking shall not be allowed within 15 feet of any exterior public doorway or any air intake of a restaurant,

## DESIGNATED SMOKING ROOMS AND AREAS

- (a) An employer not otherwise restricted from doing so under this article may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within 15 feet of any entrance, exit or air intake.
- (b) If smoking is to be permitted in any space exempted in this article or in a smoking room pursuant to Subsection (a) of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within 15 feet of any entrance, exit or air intake. Any employer may choose a more restrictive smoking policy, including being totally smoke free.
- (d) A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is re-circulated to nonsmoking areas of the building.
- (d) Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which shall be *in* a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No exhaust from such room shall be located within 25 feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

## POSTING

- (a) The person who owns or operates a place where smoking or tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance to the building indicating that the place is smoke-free or tobacco-free,
- (b) Responsibility for posting signs or decals shall be as follows:



- (1) in privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;
- (2) in corporately owned facilities> the manager and/or supervisor of the facility involved shall be responsible; and
- (3) in publicly owned facilities, the manager and/or supervisor of the facility shall be responsible.

#### VIOLATION AND PENALTY

Any person who knowingly violates this article is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$10.00 nor more than one hundred dollars (\$100.00).

#### ENFORCEMENT

The State or local governmental agency or the person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:

- (a) post signs at entrances to places where smoking is prohibited which state that tobacco use *is* prohibited or that the indoor environment is free of tobacco smoke; and
- (b) ask tobacco users to refrain from using any form of tobacco products, including electronic smoking devices upon observation. of anyone violating the provisions of this act.

#### SECTION 8-502 Prevention of Youth Access to Tobacco

#### DEFINITIONS

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

- (a) *Cigarette* means any product that contains nicotine, is untended. to be burned or heated under ordinary conditions of use, and costs of or contains:
  - (1) any roll of tobacco wrapped un paper or in any substance not containing tobacco,

- {2) tobacco, in any form, that is functional in the product which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by consumers as a cigarette described in subparagraph a of this paragraph.

The term "cigarette" includes "roll-your-own", (i.e. any tobacco which, because of its appearance, type, packaging, or labeling: is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette".

- (b) *Proof of age* means a drivers license, license for identification only, or other generally accepted means of identification that describes the individual as 18 years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;
- (c) *Sample* means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product;
- (d) *Sampling* means the distribution of samples to members of the public in a public place;
- (e) *Tobacco product* means any product that contains tobacco and is intended for human consumption;
- (f) *Transaction scan* means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and
- (g) *Transaction scan device* means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format: the information encoded on the magnetic strip Oil bar code of a driver license or other government-issued photo identification.

#### FURNISHING OR SALE OF TOBACCO PRODUCTS TO MINORS

- (a) It is unlawful for any person to sell, give, or furnish in any manner any tobacco product to another person who is under eighteen (18) years of age to purchase in any manner a tobacco product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.
- (b) Any person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age. If an individual engaged in the sale or distribution of tobacco products has demanded and was shown proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of Subsection (b) of this section.
- (c) Defenses: Proof that the defendant demanded, was shown, and

reasonably relied upon proof of age shall be a defense to prosecution under Subsections (a) or (b) of this section. A person cited for violation of this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of such violation, if such person proves that:

- (1) The individual who purchased or received the tobacco product presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older; and
- (2) The person cited for the violation confirmed the validity of the driver's license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.
- (3) Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver's license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

(d) When a person is convicted or enters a plea and receives a continued sentence for a violation of subsections (a) or (b) of this section, the total of any fines, fees, and costs shall not exceed the following:

- (1) One Hundred Dollars (\$100.00) for the first offense;
- (2) Two Hundred Dollars (\$200.00) for the second offense within a two-year period following the first offense; and
- (3) Three Hundred Dollars (\$300.00) for the third or subsequent offense within a two-year period following the first offense.

#### RECEIPT OF TOBACCO PRODUCTS BY MINORS

(a) It is unlawful for any person who is under eighteen (18) years of age to purchase, receive, or have in his or her possession a tobacco product or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for an employee under age eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

(b) When a person is convicted *or* enters a plea and receives a continued sentence for a violation of subsections (a) of this section, the total of any fines, fees, or costs shall not exceed the following:

- (1) One Hundred Dollars (\$100.00) for a first offense; and
- (2) Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

#### DISTRIBUTION OF TOBACCO PRODUCTS SAMPLES.

- (a) It is unlawful for any person to distribute tobacco products or product samples to any person under eighteen (18) years of age.
- (b) No person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.
- (c) When a person is convicted or enters a plea and receives a continued sentence for a violation of subsections (a) or (b) of this section, the total of any fines, fees, or costs shall not exceed the following:
  - (1) One Hundred Dollars (\$100.00) for the first offense;
  - (2) Two Hundred Dollars (\$200.00) for the second offense; and
  - (3) Three Hundred Dollars (\$300.00) for the third or subsequent offense ..

#### SALE OF TOBACCO PRODUCTS EXCEPT IN ORIGINAL PACKAGE.

- (a) It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.
- (b) When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars (\$200.00) for each offense.

#### ACCESS TO MINORS

- (a) It is unlawful for any person or retail store to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit unto the store persons under eighteen (18) years of age.
- (b) When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars (\$200.00) for each offense

## REPORT OF VIOLATIONS AND COMPLIANCE CHECKS.

(a) Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection (b) of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission. Convictions shall be reported by the Court Administrator/Court Clerk or his designee and compliance checks shall be reported by the Chief of Police or his designee.

(b) Persons under eighteen (18) years of age may be enlisted by the Police Department to assist in enforcement of this Article pursuant to the rules of the ABLE Commission.

