OKLAHOMA STATUTES
TITLE 11. CITIES AND TOWNS

§11-1-101. Short title.

This act may be cited as the "Oklahoma Municipal Code." Laws 1977, c. 256, § 1-101, eff. July 1, 1978.

§11-1-102. Definitions.

As used in the Oklahoma Municipal Code:

1. "Charter municipality" or "Municipality governed by charter" means any municipality which has adopted a charter in accordance with the provisions of the Constitution and laws of Oklahoma and at the time of adoption of the charter had a population of two thousand (2,000) or more. Once a municipal charter has been adopted and approved, it becomes the organic law of the municipality in all matters pertaining to the local government of the municipality and prevails over state law on matters relating to purely municipal concerns;

2. "City" means a municipality which has incorporated as a city in accordance with the laws of this state;

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

4. "Mayor" means the official head of the municipal government as defined by applicable law or charter provision. The mayor is the presiding officer of the governing body in all statutory forms of municipal government, and is the chief executive officer in cities having the statutory aldermanic and statutory strong-mayor-council forms of city government;

5. "Municipality" means any incorporated city or town;

6. "Officer or official" means any person who is elected to an office in municipal government or is appointed to fill an unexpired term of an elected office, and the clerk and the treasurer whether elected or appointed. When "officer" or "official" is modified by a term which refers to a personnel position or duty, the holder of the position or duty is not an officer or official of the municipality for any purpose;

7. "Ordinance" means a formal legislative act of a municipal governing body which has the force and effect of a continuing regulation and a permanent rule of conduct or government for the municipality;

8. "Publish" or "Publication" means printing in a newspaper which:

a. maintains an office in the municipality and is of general circulation in the municipality. If there is no such newspaper, then in any newspaper which is of general circulation in the municipality; and

b. meets the requirements of a legal newspaper as provided in Section 106 of Title 25 of the Oklahoma Statutes.

If there is no newspaper meeting the requirements as provided for in this paragraph, the term publish or publication shall mean posting a copy of the item to be published in ten or more public places in the municipality. When a notice is required to be published for a prescribed period of time, publishing the notice one (1) day each week during the prescribed period of publication is sufficient in accordance with Section 103 of Title 25 of the Oklahoma Statutes;

9. "Quorum" means a majority of all the members of the governing body, board, or commission, including vacant positions;

10. "Registered voter" means any person who is a qualified elector, as defined by the provisions of Section 1 of Article III of the Oklahoma Constitution, who resides within the limits of a municipality and who has registered to vote in the precinct of his residence;

11. "Resident" means a person whose actual dwelling or primary residence is located within the corporate limits of the municipality;

12. "Resolution" means a special or temporary act of a municipal governing body which is declaratory of the will or opinion of a municipality in a given matter and is in the nature of a ministerial or administrative act. A resolution is not a law and does not prescribe a permanent rule of conduct or government; and

13. "Town" means a municipality which has incorporated as a town in accordance with the laws of Oklahoma.

Amended by Laws 1984, c. 126, § 1, eff. Nov. 1, 1984.

§11-1-103. Saving vested rights.

The provisions of this act shall not in any manner affect the rights, liability or right of action, civil or criminal, for or against any municipality in any action commenced before the effective date of this act. The adoption of this act shall not be construed to repeal or in any way affect or modify:

1. Any substantive or fixed right;

2. Any law authorizing the issuance of any outstanding bonds of any municipality;

3. Any law pursuant to which special assessments or rates or charges of any nature levied by any municipality which have not been paid in full, principal, interest, and any penalties; or

4. The running of any statute of limitation in force at the time this act becomes effective.

All incomplete proceedings had and taken under any law hereby repealed or amended in the acquisition or improvement of any municipal project, the holding of any election, the creation of any special assessment or other district, the levy and collection of any taxes, special assessments, rates or charges of any sort, or the issuance of any bond or other security appertaining to a municipal project, any contract for the purchase of any such bonds or securities, which proceedings are in substantial compliance herewith, may, at the option of the municipal governing body, be completed hereunder the same as if such incomplete proceedings had been had and taken pursuant to the provisions hereof.

Added by Laws 1977, c. 256, § 1-103, eff. July 1, 1978.

§11-1-110. Municipal employees - Forfeiture of retirement benefits.

A. Any municipal officer or employee upon final conviction of, or pleading guilty or nolo contendere to, a felony for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her office or employment in a state or federal court of competent jurisdiction shall forfeit retirement benefits provided by law. The forfeiture of retirement benefits shall not occur if any such officer or employee received a deferred sentence, but retirement benefits shall not commence prior to completion of the deferred sentence. The forfeiture of retirement benefits required by this section shall not include the officer's or employee's contributions to the retirement system or retirement benefits that are vested on the effective date of this act.

B. The forfeiture of retirement benefits as provided by subsection A of this section shall also apply to any such officer or employee who, after leaving the office or employment, is convicted of, or pleads guilty or nolo contendere to, in a state or federal court of competent jurisdiction, a felony committed while in such office or employment, where the felony is for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her office or employment.

C. The forfeiture shall continue until such time as the conviction or guilty plea is reversed by the highest appellate court to which the officer or employee may appeal.

D. The attorney responsible for prosecuting the municipal officer or employee shall notify the retirement system in which the officer or employee is enrolled of the forfeiture of the officer's or employee's retirement benefits. Upon receipt of the notice of forfeiture, the retirement system shall immediately suspend all benefits of the officer or employee, and shall notify the officer or employee of his or her right to a hearing to review whether the conviction or plea qualifies for forfeiture of benefits under this section. If the conviction or plea occurs in federal court or the notice of forfeiture is not forthcoming from the state prosecutor, the retirement system may investigate and gather court documents and contact prosecutors to determine whether the conviction or plea qualifies under this section. Upon obtaining sufficient documentation of the conviction or plea, the retirement system shall immediately suspend all benefits of the officer or employee, and notify the officer or employee of his or her right to a hearing to review whether the conviction or plea qualifies for forfeiture of benefits under this section.

E. The provisions of this section shall apply to a municipal officer or employee who is a member of a retirement system authorized in Sections 48-101 through 48-106 of this title, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System or the Oklahoma Public Employees Retirement System.

Added by Laws 2011, c. 202, § 1. Amended by Laws 2018, c. 20, § 1, eff. Nov. 1, 2018.

§11-2-101. Incorporation of a municipality.

A. Any community of people residing in compact form may become incorporated as a town in the manner provided in Sections 3-101 through 3-107 of this title. If the resident population is one thousand (1,000) or more, a town or community of people residing in compact form may become incorporated as a city in the manner provided in Sections 4-101 through 4-107 of this title.

B. Any community which has operated as an incorporated municipality for twenty-five (25) years or more but which does not have any evidence of its articles of incorporation shall be presumed to have incorporated as the statutory form of municipal government under which it has operated. Such community may file with the Secretary of State any historical evidence of its incorporation. Notice of said filing shall be published one time. If no action challenging the presumption of incorporation is brought within sixty (60) days after publication of the notice of filing, the presumption of incorporation shall be conclusive.

Amended by Laws 1984, c. 126, § 2, eff. Nov. 1, 1984.

§11-2-102. Name of incorporated town or city.

An incorporated municipality may be known as the:

1. "City of _____"; or

2. "Town of _____";

but no municipality which changes its name or incorporates shall adopt the name of an existing municipality in this state.
Laws 1977, c. 256, § 2-102, eff. July 1, 1978.

§11-2-103. Municipality to be surveyed and platted.

Persons intending to apply for the incorporation of a town or city shall cause a survey and plat to be made of the territory intended to be embraced within its limits. The survey shall be made by a registered land surveyor, and shall set forth the courses and distances of the boundaries, the quantity of land contained therein, and be platted into lots and blocks in accordance with Sections 41-101 through 41-111 of this title. The survey and plat shall be verified by the affidavit of the surveyor.
Laws 1977, c. 256, § 2-103, eff. July 1, 1978.

§11-2-104. Restrictions on territory included in proposed municipality or plat.

A. Except as otherwise provided by subsections B and C of this section, no territory within five (5) miles of the corporate limits of a municipality having a population of more than two hundred thousand (200,000), and no territory within three (3) miles of the corporate limits of any municipality having a population less than two hundred thousand (200,000), according to the latest federal census, shall be included in the survey and plat provided in Section 2-103 of this title or incorporated as a new municipality.

B. Territory within five (5) miles of the corporate limits of a municipality having a population of more than two hundred thousand (200,000) may incorporate as a new municipality if it can be proved to the board of county commissioners by documentation that the territory has historically been identified as a community of people residing in compact form. Such territory shall be included in the survey and plat provided in Section 2-103 of this title or incorporated as a new municipality.

C. Territory within three (3) miles of the corporate limits of a municipality having a population of less than two hundred thousand (200,000) may incorporate as a new municipality if it can be proved to the board of county commissioners by documentation that the territory has historically been identified as a community of people residing in compact form. Such territory shall be included in the survey and plat provided in Section 2-103 of this title or incorporated as a new municipality.

D. Upon application of any person or municipality affected, the district court in the county where such territory is located may afford appropriate relief for any violation of this section. Urban areas annexed by a municipality which are completely nonadjacent to the corporate limits of the municipality are not considered as within the corporate limits of that municipality for the purposes of this section.
Added by Laws 1977, c. 256, § 2-104, eff. July 1, 1978. Amended by Laws 2004, c. 329, § 1, eff. Nov. 1, 2004; Laws 2006, c. 301, § 1, eff. Nov. 1, 2006; Laws 2007, c. 43, § 1, eff. Nov. 1, 2007.

§11-2-105. Division into wards - Number of wards.

Persons intending to apply for incorporation of a municipality shall divide the proposed municipality into the following number of wards, having due regard to the equitable apportionment of the population and the convenience and contiguity of the wards:

1. A town shall be divided into three (3) or five (5) wards.

2. A city to be operated under the statutory aldermanic form of government shall be divided into at least four (4) wards. A city to be operated under the statutory council-manager or statutory strong-mayor-council form shall be divided into four (4) or six (6) wards.
Laws 1977, c. 256, § 2-105, eff. July 1, 1978.

§11-2-106. Incorporation procedure for municipality situated in two or more counties.

If a proposed town or city is situated in two or more counties, the petition for incorporation may be presented to the board of county commissioners of any county in which any part of the proposed municipality is situated. The board shall act upon the petition in the same manner as if the proposed municipality were situated wholly within the county where the petition is presented. The county clerk shall immediately certify the proceedings relating to the incorporation of the municipality to the board of commissioners of each other county in which any part of the municipality is situated, and each board which receives this certification shall enter the proceedings upon its records.
Laws 1977, c. 256, § 2-106, eff. July 1, 1978.

§11-2-107. Effect of incorporation - Filing - Judicial notice - Challenges.

The order declaring incorporation of a municipality, issued by the board of county commissioners as provided in Sections 3-105, 4-105 and 5-104 of this title or issued by the town board of trustees as provided in Section 4-103 of this title, shall be recorded in the office of the county clerk in the county in which the situs of the municipality is located and filed in the office of the Secretary of State and in the archives of the municipality. The order shall be

conclusive evidence of incorporation in all suits by or against the municipality and shall be judicially noticed in all court proceedings without specifically pleading or alleging incorporation. Anyone wishing to challenge the formation, incorporation or organization of an incorporated municipality must bring action in the district court in the county in which the situs of the municipality is located within sixty (60) days after the date of the order declaring incorporation.
Laws 1977, c. 256, § 2-107, eff. July 1, 1978.

§11-3-101. Petition for incorporation of town - Notice - Contents.

A. A petition for incorporation of a town shall be presented to the board of county commissioners of the county in which the proposed town is located, at the time indicated in the notice, as provided for in subsection C of this section, or as soon thereafter as the board can receive and consider it. The petition shall be:

1. In writing; and

2. Signed by at least one-third (1/3) of the registered voters residing in the proposed town as shown by the preceding general election or by at least twenty-five (25) registered voters residing in the proposed town, whichever number is greater. The registered voters signing the petition must be residents of the proposed town at the time of signing the petition and for the sixty (60) days immediately preceding the signing of the petition.

B. Each petition shall be on a separate sheet and shall be authenticated by the affidavit of at least one credible witness that the signatures are genuine, that the signatures on the petition are in compliance with the provisions of paragraph 2 of subsection A of this section, and that the signatures on the petition were not gathered more than thirty (30) days prior to the petition being presented to the board. The petition shall include:

1. The name of the proposed town;

2. The survey and plat of the proposed town;

3. The resident population including names and addresses of persons residing in the area of the proposed town not more than sixty (60) days prior to presenting the petition to the board of county commissioners;

4. The number and boundaries of the proposed town wards or, if no wards are proposed, the number of positions on the proposed board of trustees;

5. The appropriate documentation to prove that territory within five (5) miles of the corporate limits of a municipality having a population of more than two hundred thousand (200,000) has historically been identified as a community of people residing in compact form, if applicable; and

6. Affidavits verifying the facts contained in the petition.

C. Not less than thirty (30) days before presenting the petition to the board of county commissioners, notice of the intent of the petitioners to apply for incorporation of a town shall be given by leaving the survey, plat, census, and description of wards, if any, in some convenient place in the proposed town for examination by those having an interest in the application.
Added by Laws 1977, c. 256, § 3-101, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 3, eff. Nov. 1, 1984; Laws 2004, c. 329, § 2, eff. Nov. 1, 2004; Laws 2011, c. 98, § 1.

§11-3-102. Hearing on petition - Order of commissioners calling for election on question.

Within thirty (30) days after the petition for incorporation has been presented, the board of county commissioners shall determine, either by affidavit or by oral testimony in a hearing on the petition, whether the requirements for incorporation have been fully complied with. If the board is satisfied with the petitioners' compliance, it shall call for an election for the purpose of submitting to the registered voters of the proposed town the question of whether or not such territory shall become an incorporated town. The order of the board calling for the election shall name the date for the election and shall be submitted to the secretary of the county election board for the purpose of conducting the election.
Laws 1977, c. 256, § 3-102, eff. July 1, 1978.

§11-3-103. Notice of election.

At least ten (10) days' notice of the election shall be given by the board of county commissioners by publication in a newspaper of general circulation in the proposed town, and by posting a copy of the order in not less than ten (10) of the most public places in the proposed town.
Laws 1977, c. 256, § 3-103, eff. July 1, 1978.

§11-3-104. Conduct of election - Ballots.

The election shall be conducted in accordance with applicable election laws. The registered voters of the proposed town shall vote on the question of incorporation by separate ballot, which shall be substantially in the following form:

For incorporation as the town of _____

( ) Yes.

( ) No.

Laws 1977, c. 256, § 3-104, eff. July 1, 1978.

§11-3-105. Canvassing returns - Statement of result - Order of incorporation.

The county election board shall canvass the returns of the election. Within five (5) days after the canvass of the returns of

the election, the secretary of the county election board shall certify the results of the election to the board of county commissioners. If a majority of the votes cast are in favor of incorporation as a town, the board of commissioners shall, within twenty (20) days after receiving the result of the vote, issue an order declaring that the town has been incorporated and naming the date for the election of town officers. The territory shall, from the date of the commissioners' order, be deemed a body corporate and an incorporated town.
Laws 1977, c. 256, § 3-105, eff. July 1, 1978.

§11-3-106. Notice of election of town officers - Fees and expenses.
The order of the board of county commissioners shall be submitted to the secretary of the county election board for the purpose of conducting the election of town officers. If the town is eligible to come within the provisions of the Oklahoma Town Meeting Act and a majority of the petitioners desire to comply with the provisions of the Oklahoma Town Meeting Act, the petitioners shall call the election in accordance with the provisions of the Oklahoma Town Meeting Act. Notice of any election of town officers shall be in the manner provided by law for municipal elections. All expenses for any election on the question of incorporation and the election of officers shall be paid by the county and reimbursed by the town when fully organized.
Added by Laws 1977, c. 256, § 3-106, eff. July 1, 1978. Amended by Laws 1998, c. 357, § 1, eff. Jan. 1, 1999.

§11-3-107. Officers to be elected.
The officers to be elected shall be those provided by law applicable to the town board of trustees form of government. These officers shall hold office until the next odd-numbered year, at which time the first regular municipal election shall be held under the town board of trustees form of government as provided in Section 16-206 of this title, and until their successors are elected and qualified.
Added by Laws 1977, c. 256, § 3-107, eff. July 1, 1978.

§11-4-101. Petition for incorporation of city - Contents.
A petition for incorporation of a city shall be filed with the board of county commissioners of the county in which the proposed city is located. The petition shall:
1. Be in writing; and
2. Be signed by at least thirty-five percent (35%) of the registered voters residing in the proposed city, as shown by the preceding general election.
Each petition shall be on a separate sheet and shall be authenticated by the affidavit of at least one credible witness that the signatures

are genuine and the signers of the petition are registered voters of the proposed city. The petition shall include: 1. The name of the proposed city;

2. The survey and plat of the proposed city;

3. The resident population according to the latest federal census or other census recognized by the laws of Oklahoma, which population must be one thousand (1,000) inhabitants or more;

4. The number and boundaries of the proposed city wards;

5. A designation of the statutory form of city government that is proposed for the city when it becomes incorporated; and

6. Affidavits verifying the facts alleged in the petition.

Laws 1977, c. 256, § 4-101, eff. July 1, 1978.

§11-4-102. Order calling for election on question - Notice.

Within thirty (30) days after filing the petition for incorporation of a city, the board of county commissioners shall call for an election for the purpose of submitting to the registered voters of the proposed city the question of whether or not such town or community of people shall become an incorporated city. The order calling for the election shall name the date for the election and shall be submitted to the secretary of the county election board for the purpose of conducting the election. The order shall be published in a newspaper of general circulation in the proposed city for a period of at least twenty (20) days prior to the election.

Laws 1977, c. 256, § 4-102, eff. July 1, 1978.

§11-4-103. Alternative procedure for incorporated towns.

As an alternative procedure to filing a petition with the board of county commissioners, the board of trustees of an incorporated town, by resolution, may direct the mayor to submit the question of whether or not the town shall become a city to the registered voters of the town at a special or general election. The resolution shall:

1. Divide the municipality into the required number of wards for purposes of the proposed city;

2. Designate the statutory form of city government that is proposed for the city when it becomes incorporated; and

3. Name the date for the election.

If a majority of the votes cast are in favor of incorporation as a city, as certified by the county election board, the town board shall adopt a resolution declaring that the city has been incorporated and naming the date for the election of city officers. The city shall, from the date of the board's resolution, be deemed a body corporate and an incorporated city.

Laws 1977, c. 256, § 4-103, eff. July 1, 1978.

§11-4-104. Conduct of election - Ballots.

The election on the question of incorporation shall be conducted in accordance with applicable election laws. The registered voters of the proposed city shall vote on the question by separate ballot, which shall be substantially in the following form: Shall the _____ (town, community, territory) of _____ become incorporated as the city of _____ and operated under the statutory _____ (name of proposed statutory form) form of city government as provided by the laws of Oklahoma?

( ) Yes.
( ) No.

Laws 1977, c. 256, § 4-104, eff. July 1, 1978.

§11-4-105. Canvassing returns - Certification of results - Order of incorporation.

The county election board shall canvass the returns of the election. Within five (5) days after the canvass of the returns of the election, the secretary of the county election board shall certify to the board of county commissioners the results of the election. If a majority of the votes cast are in favor of incororation as a city under the designated statutory form, the board of commissioners shall, within twenty (20) days after receiving the results of the vote, issue an order declaring that the city has been incorporated under the designated statutory form of city government and naming the date for the election of city officers. The city shall, from the date of the commissioners' order, be deemed a body corporate and an incorporated city.

Laws 1977, c. 256, § 4-105, eff. July 1, 1978.

§11-4-106. Notice of election of city officers - Fees and expenses.

The order of the board of county commissioners shall be submitted to the secretary of the county election board for the purpose of conducting the election. Notice of the election of city officers shall be in the manner provided by law for municipal elections. All expenses for the election on the question of incorporation and the election of officers shall be paid by the county and reimbursed by the city when fully organized.

Added by Laws 1977, c. 256, § 4-106, eff. July 1, 1978. Amended by Laws 1998, c. 357, § 2, eff. Jan. 1, 1999.

§11-4-107. Officers to be elected.

The officers to be elected shall be those provided by the laws governing the statutory form of city government which has been adopted. These officers shall hold office until the next odd-numbered year, at which time the first regular municipal election shall be held in accordance with the form of government adopted, and until their successors are elected and qualified.

Laws 1977, c. 256, § 4-107, eff. July 1, 1978.

§11-5-101. City incorporating as a town - Procedure.

Any city may become an incorporated town. A petition for a city to become an incorporated town shall be filed with the board of county commissioners of the county in which the city is located. The petition shall:

1. Be in writing; and

2. Be signed by at least thirty-five percent (35%) of the registered voters of the city, as shown by the preceding general election.

The petition shall clearly express the desire of the petitioners to become incorporated as a town and shall be authenticated by the affidavit of at least one credible witness that the signatures are genuine and that the signers of the petition are registered voters of the city. The petition shall include:

1. The name of the city and of the proposed town;

2. The survey and plat of the city;

3. The resident population according to the latest federal census or other census recognized by the laws of Oklahoma;

4. The description and name of the proposed town wards; and

5. Affidavits verifying the facts alleged in the petition.

Laws 1977, c. 256, § 5-101, eff. July 1, 1978.

§11-5-102. Order calling for election on question - Notice.

Within thirty (30) days after filing the petition for a city incorporating as a town, the board of county commissioners shall call for an election for the purpose of submitting to the registered voters of the city the question of whether or not such city shall become an incorporated town. The order calling for the election shall name the date for the election and shall be submitted to the secretary of the county election board for the purpose of conducting the election. The order shall be published in a newspaper of general circulation in the city for a period of at least twenty (20) days prior to the election.

Laws 1977, c. 256, § 5-102, eff. July 1, 1978. 0

§11-5-103. Election on city incorporating as town - Ballots.

The election shall be conducted in accordance with applicable election laws. A separate ballot shall be prepared for submitting the question of whether or not the city shall become an incorporated town. The ballot shall be in substantially the following form:

Shall the City of _____ become an incorporated town and be known as the Town of _____?

( ) Yes.

( ) No.

Laws 1977, c. 256, § 5-103, eff. July 1, 1978.

§11-5-104. Certification of results - Order of incorporation - Notice of election of town officers - Fees and expenses.

The county election board shall canvass the returns of the election. Within five (5) days after the canvass of the returns of the election, the secretary of the county election board shall certify to the board of commissioners the results of the election. If a majority of the votes cast in the election are in favor of the city incorporating as a town, the board of commissioners shall, within twenty (20) days after receiving the result of the vote, issue an order declaring the town's incorporation and naming the date for the election of town officers. Notice of the election of town officers shall be in the manner provided by law for municipal elections. All expenses for the election on the question of incorporation and the election of officers shall be paid by the incorporated town.

Laws 1977, c. 256, § 5-104, eff. July 1, 1978.

§11-5-105. Town officers to be elected.

The officers to be elected shall be those provided by law applicable to the town board of trustees form of government. These officers shall hold office until the next odd-numbered year, at which time the first regular municipal election shall be held under the town board of trustees form of government as provided in Section 16-206 of this title, and until their successors are elected and qualified.

Laws 1977, c. 256, § 5-105, eff. July 1, 1978.

§11-5-106. Indebtedness assumed by incorporated town.

All indebtedness of any nature, whether resulting from a bond issue or otherwise, shall be assumed by the incorporated town.

Laws 1977, c. 256, § 5-106, eff. July 1, 1978.

§11-6-101. Proposal for consolidation - Terms and conditions - Approval by governing bodies.

Any two or more municipalities lying adjacent to each other may consolidate and become one municipal corporation. A proposal for consolidation shall be prepared by the governing body of a municipality when:

1. A resolution of the governing body so directs; or

2. A petition signed by at least twenty-five percent (25%) of the registered voters of the municipality, as shown by the preceding general election, is filed with the governing body.

The proposal shall then be submitted to the governing body of an adjacent municipality for its approval. When the proposal is approved, the governing bodies of the municipalities to be consolidated, or their representatives, shall prepare the terms and conditions of the consolidation. The terms and conditions of

consolidation shall provide for the transition of officers and employees of each municipality which is to be consolidated. If each governing body approves the terms of consolidation, it shall adopt a resolution declaring its approval and shall provide for an election on the question of consolidation.
Laws 1977, c. 256, § 6-101, eff. July 1, 1978.

§11-6-102. Ballots - Election on question.

The question submitted to the registered voters of each municipality shall be substantially in the following form:

Shall the municipalities of _____ and _____ (name of all municipalities to be consolidated) consolidate as the _____ (city or town) of _____ and be operated under the _____ form of government?

( ) Yes.
( ) No.

If a majority of the votes cast in each municipality are in favor of consolidation, the governing body in each municipality shall declare, by ordinance, that the consolidation has been approved and shall proceed to consolidate under the terms of consolidation. The consolidation and formation of the municipal corporation shall take effect on the date named in the terms and conditions. Upon the effective date, the municipal corporation shall be governed by laws applicable to the form of government which has been adopted.
Laws 1977, c. 256, § 6-102, eff. July 1, 1978.

§11-6-103. Record of consolidation.

The order of each municipality declaring consolidation as a municipal corporation shall be recorded in the office of the county clerk in the county in which the situs of the consolidated municipal corporation is located and filed in the office of the Secretary of State and in the archives of the municipal corporation.
Laws 1977, c. 256, § 6-103, eff. July 1, 1978.

§11-6-104. Property and obligations after consolidation.

All real and personal property belonging to each municipality so consolidated, and all its notes, bonds, obligations, accounts, demands, evidences of debt, rights and franchises, books, records, maps and plats shall become the property of the consolidated municipal corporation. Each municipality as it existed before consolidation shall remain liable for all its obligations and outstanding indebtedness which are due or become due on the day of the election on consolidation, and the property within such municipality shall be assessed to pay the obligations and indebtedness in the same manner as if a consolidation had not taken place. In no event shall the consolidated municipal corporation be

liable for obligations existing before consolidation unless expressly provided for by the terms and conditions of consolidation.
Laws 1977, c. 256, § 6-104, eff. July 1, 1978.

§11-7-101. Dissolution of municipality - Application - Notice of election on question.

An application for dissolution of a municipality shall be filed with the governing body of the municipality. The application shall:

1. Be in writing;

2. Set forth the reasons for the request; and

3. Be signed by not less than one-third of the registered voters residing in the municipality as shown by the preceding general election.

If the governing body of the municipality determines that the reasons for dissolution are good, it shall call for an election for the purpose of submitting to the registered voters of the municipality the question of whether or not the municipality should be dissolved. Notice of the election shall be given by the governing body in the manner provided by law for municipal elections.
Laws 1977, c. 256, § 7-101, eff. July 1, 1978.

§11-7-102. Conduct of election - Results.

Registered voters of the municipality shall vote by ballot "yes" or "no" on the question of dissolution of the municipality. The election shall be conducted in accordance with applicable election laws. If a majority of the votes are in favor of dissolution, and the votes have been cast by at least two-fifths of the registered voters of the municipality (as shown by the preceding general election), a statement of the vote signed by the mayor, and attested by the clerk, shall be filed in the office of the county clerk in the county in which the situs of the municipality is located and in the office of the Secretary of State. At the expiration of six (6) months from the date of the election on the question, the municipality shall cease to be a corporation.
Laws 1977, c. 256, § 7-102, eff. July 1, 1978.

§11-7-103. Disposition of property - Payment of debts and liabilities - Contract rights.

The property belonging to the dissolved municipality shall be used first to pay its debts and liabilities, and then disposed of in the manner as a majority of the registered voters of the municipality shall direct in a special election on the question of disposition of property. No dissolution of an incorporated municipality shall impair the rights of any person in any contract or agreement to which the municipality is a party.
Laws 1977, c. 256, § 7-103, eff. July 1, 1978.

§11-7-104. Real property owned by municipality at time of dissolution.

If a municipality is the owner in fee simple of real property at the time it is dissolved, and this real property is thereafter brought within the boundaries of another existing incorporated municipality, the fee simple title of this real property will divest from the dissolved municipality and vest in the existing municipality.

Laws 1977, c. 256, § 7-104, eff. July 1, 1978.

§11-7-105. Involuntary dissolution - Grounds - Petition in district court.

The district attorney for the county in which the situs of the municipal government is located may petition for involuntary dissolution of a municipality when the government of a municipality ceases to function by reason of the following:

1. General municipal elections have not been called in the municipality for two successive general municipal elections;

2. A majority of all the members of the governing body fail to qualify for two successive general municipal elections; or

3. The municipality is totally within an area subject to subsidence, environmental contamination or flooding as a result of mining operations, dam construction or natural causes beyond the control of the municipality, and said municipality is unable to meet the cost of continuing its government and maintaining its services to residents due to a reduction in population resulting from such circumstances.

The petition requesting involuntary dissolution shall be filed in the district court in the county in which the situs of the municipality is located. The petition shall state the facts which justify the request and shall set forth a detailed statement of the assets and liabilities of the municipality insofar as they can be ascertained.

Added by Laws 1977, c. 256, § 7-105, eff. July 1, 1978. Amended by Laws 2009, c. 224, § 1, eff. Nov. 1, 2009.

§11-7-106. Involuntary dissolution - Notice of hearing.

Upon the filing of a petition for the involuntary dissolution of a municipality, the district court shall fix a date for a hearing on the request. The date of the hearing shall be not less than thirty (30) days after the date of filing. The district attorney for the county in which the situs of the municipal government is located shall give at least twenty (20) days' notice of the hearing by publication in a newspaper of general circulation in the municipality, and by posting copies of the notice in five (5) of the most public places in the municipality. The notice shall state the purpose of the petition and the date and place of the hearing.

Laws 1977, c. 256, § 7-106, eff. July 1, 1978.

§11-7-107. Involuntary dissolution - Hearing and order.

Any person owning property in or registered to vote in the municipality may appear at the hearing and give testimony for or against dissolution of the municipality. If the court finds that the government of the municipality has ceased to function because of the reasons listed in Section 7-105 of this title, it shall enter an order for dissolution of the municipality. The order of the court shall state when the dissolution shall take effect and appoint a receiver, if necessary, to wind up the affairs of the municipality and dispose of its property. A record of dissolution shall be filed in the manner provided for voluntary dissolution.

Laws 1977, c. 256, § 7-107, eff. July 1, 1978.

§11-8-101. Qualifications for elected office.

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

Laws 1977, c. 256, § 8-101, eff. July 1, 1978.

§11-8-102. Term of office.

Unless otherwise provided for by law, the term of office of an elected municipal official shall be four (4) years. The term of office of an elected official shall begin at 12:00 noon on the second Monday following the general municipal election, and such official shall serve until his successor is elected and qualified. If a newly elected official does not qualify within thirty (30) days after his term of office begins, the office shall become vacant and shall be filled in the manner provided by law. In order to complete the unexpired term, the office of an official who is holding over shall be filled at the next general election in compliance with the provisions of Sections 16-101 through 16-213 of this title.

Amended by Laws 1984, c. 126, § 4, eff. Nov. 1, 1984.

§11-8-103. Oath of office.

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

Laws 1977, c. 256, § 8-103, eff. July 1, 1978.

§11-8-104. Who may administer oaths.

All officers authorized by state law, the mayor, the municipal clerk, the city manager, the municipal judge or judges and such other officers as the municipal governing body may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the municipality.
Laws 1977, c. 256, § 8-104, eff. July 1, 1978.

§11-8-105. Certain officers to give bond.
The municipal governing body shall require the municipal treasurer, any officer or employee designated by ordinance to sign municipal warrants or municipal checks, and any other officers and employees as the governing body may designate by ordinance, to give bond for the faithful performance of his duties within ten (10) days after his election or appointment, in such amount and form as the governing body shall prescribe. The municipality shall pay the premiums on such bonds.
Laws 1977, c. 256, § 8-105, eff. July 1, 1978; Laws 1992, c. 371, § 1, eff. July 1, 1992.

§11-8-106. Nepotism - Dual office holding.
No elected or appointed official or other authority of the municipal government shall appoint or elect any person related by affinity or consanguinity within the third degree to any governing body member or to himself or, in the case of a plural authority, to any one of its members to any office or position of profit in the municipal government. The provisions of this section shall not prohibit an officer or employee already in the service of the municipality from continuing in such service or from promotion therein. A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the governing body shall not receive compensation for service in any municipal office or position other than his elected office.
Amended by Laws 1984, c. 126, § 5, eff. Nov. 1, 1984.

§11-8-107. Removal of officers.
A municipal elected official may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby.
Laws 1977, c. 256, § 8-107, eff. July 1, 1978.

§11-8-108. Absence from governing body meetings.
Whenever a member of the municipal governing body is absent from more than one-half of all meetings of the governing body, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office.
Laws 1977, c. 256, § 8-108, eff. July 1, 1978.

§11-8-109. Vacancies in office.

A. When a vacancy occurs in an office of an elected municipal official except the mayor, the governing body shall appoint, by a majority vote of the remaining members, a person to fill the vacancy until the next general municipal election, or the next biennial town meeting if the municipality is subject to the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election or biennial town meeting by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election or a special town meeting for the purpose of filling the vacancy for the duration of the unexpired term unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election or within one hundred twenty (120) days prior to the next biennial town meeting. If a vacancy is not filled by the special election or at a special town meeting, it shall be filled by appointment as provided for in this subsection.

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

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

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

1. Within five (5) days of the occurrence of the last vacancy, the interim mayor shall call a special election or a special town meeting, if the municipality is subject to the provisions of the Oklahoma Town Meeting Act, for the purpose of filling the unexpired terms in accordance with subsection B of this section. If all of the offices of the governing body become vacant sixty (60) days or less before the beginning of a regular filing period for general elections or sixty (60) days or less before the next biennial town meeting, the interim mayor shall call the regular general election or the biennial town meeting, whichever is appropriate. If the interim mayor fails or refuses to call an election or town meeting, whichever is appropriate, the board of county commissioners of the county in which the municipality is located shall call the election or town meeting. The county sheriff, or his deputy, shall attend any town meeting called by the board of county commissioners and, if the interim mayor fails to conduct the meeting, shall moderate the meeting. The interim mayor or the sheriff or deputy who is moderating the meeting is authorized to appoint a registered voter of the municipality to take the minutes of the meeting. If the vacancies are not filled by the election or town meeting called for the purpose, the Governor may appoint registered voters of the municipality to fill the vacancies without regard to wards for the balance of the unexpired term.

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

E. To be eligible for appointment to fill a vacancy in an elected municipal office a person must meet the same qualifications required for filing a declaration for candidacy for that office.
Amended by Laws 1984, c. 126, § 6, eff. Nov. 1, 1984; Laws 1988, c. 105, § 16, eff. Nov. 1, 1988; Laws 1989, c. 255, § 1, emerg. eff. May 19, 1989.

§11-8-110. Candidacy of municipal officer for county or state office - Resignation.

Any member of a municipal governing body, the city or town clerk, and the city marshal shall be eligible to become a candidate for a county or state office without resigning from the office held by the officer.
Added by Laws 1977, c. 256, § 8-110, eff. July 1, 1978. Amended by Laws 2004, c. 47, § 1.

§11-8-111. Abstinence in voting in certain meetings.

If a member of the governing body of a municipality abstains from voting, he shall be deemed to have cast a negative vote, which shall be recorded in the minutes.
Added by Laws 1984, c. 126, § 7, eff. Nov. 1, 1984.

§11-8-112. Resignation of municipal officer.

A municipal officer may resign by submitting his written resignation to the governing body of the municipality, to the remaining members of the municipal governing body if some positions are vacant, to the interim mayor or, if all positions of the governing body will become vacant upon the resignation, to the board of county commissioners of the county in which the municipality is located. Delivery of the written resignation to the governing body during a public meeting of such body or to the municipal clerk by mail or personal delivery during regular office hours shall constitute submission of the resignation to the municipal governing body. Delivery of the written resignation to the board of county commissioners during a public meeting of the commissioners or to the county clerk by mail or hand delivery during regular office hours shall constitute submission of the resignation to the board of county commissioners. A resignation submitted by a municipal officer may be withdrawn in writing at any time prior to the effective date stated in the resignation. If no effective date is stated, the resignation shall be effective immediately. Acceptance by the governing body shall not be required for the resignation to be effective.
Added by Laws 1984, c. 126, § 8, eff. Nov. 1, 1984. Amended by Laws 1988, c. 105, § 17, eff. Nov. 1, 1988.

§11-8-113. Prohibited business activities with municipality - Exceptions - Definitions - Violations - Employees of financial institutions.

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

1. Selling, buying, or leasing property, real or personal, to or from the municipality;

2. Contracting with the municipality; or

3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than five thousand (5,000) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities

permitted by this subsection shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) for any single activity and shall not exceed Fifteen Thousand Dollars ($15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars ($15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.

C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for the materials, supplies, or services to be procured by the municipality regardless of the population restrictions of subsection B of this section, provided the notice of bids was made public and open to all potential bidders.

D. All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record.

E. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.

F. For purposes of this section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.

G. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of the provisions of this section shall be held personally liable for the amount of the transaction.

H. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board

of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.
Added by Laws 1984, c. 126, § 9, eff. Nov. 1, 1984. Amended by Laws 1985, c. 5, § 1, emerg. eff. March 5, 1985; Laws 1995, c. 118, § 1, eff. Nov. 1, 1995; Laws 1996, c. 341, § 1, eff. Nov. 1, 1996; Laws 2004, c. 68, § 1, emerg. eff. April 7, 2004; Laws 2007, c. 66, § 1, eff. July 1, 2007; Laws 2012, c. 210, § 1, eff. Nov. 1, 2012.

§11-8-114. Institute - Statewide organization to conduct.

A. Each person elected or appointed for the first time as an officer of a municipality as defined by paragraph 6 of Section 1-102 of this title, shall be required within one (1) year after taking the oath of office to attend an institute for municipal officials. The Institute shall be conducted at all times, in cooperation with the Oklahoma Department of Career and Technology Education, by or under the supervision of a statewide organization that is exempt from taxation under federal law and designated pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 170(a). The statewide organization shall demonstrate to the Oklahoma Department of Career and Technology Education that it has represented municipalities, had statutory functions and conducted training programs for municipalities for at least fifteen (15) years prior to November 1, 2005. It shall further demonstrate that its continuous official purpose is to promote the general welfare of cities and towns, to foster or conduct schools, short courses and other training sessions, to provide technical assistance and consultive services and other aids for the improvement and increased efficiency of city and town government, and to serve as the representative of cities and towns in carrying out the duties and prerogatives conferred on it by state law.

B. The Institute shall consist of eight (8) hours of instruction. A certificate of completion shall be awarded to those persons who attend and successfully complete the Institute and a list of those persons shall be filed with the Oklahoma Department of Career and Technology Education.

C. The curriculum for the Institute shall include, but not be limited to: municipal budget requirements, the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, ethics, procedures for conducting meetings, conflict of interest, and purchasing procedures.

D. The Institute shall be held at a minimum of six regional locations in the state. Every effort shall be made by the Institute to accommodate training through long-distance learning.

E. A person elected or appointed to a municipal office who fails to satisfy the education requirements of this section shall cease to hold the office commencing at the next scheduled meeting of the

governing body following the first-year anniversary of the person's taking the oath of office.

F. At the time of filing, the designated statewide organization shall provide the necessary information to the candidate of the option for attendance at the Institute as provided for in this section. In the case of officials nominated and elected for municipal offices at town meetings, the presiding officer of the town meeting shall notify the candidate of the option.

Added by Laws 2005, c. 147, § 1, eff. Nov. 1, 2005. Amended by Laws 2006, c. 301, § 2, eff. Nov. 1, 2006; Laws 2007, c. 60, § 1, eff. Nov. 1, 2007; Laws 2008, c. 23, § 1, emerg. eff. April 11, 2008.

§11-8-115. Professional services - Independent contractor presumption.

A. It is the intention of the Legislature to encourage attorneys, engineers and members of other professions to perform their professional services for local and state governments.

B. An attorney, engineer or member of other profession who performs duties required or permitted by statute as attorney, prosecutor, judge, engineer or other professional for a local or state government in Oklahoma pursuant to a retainer or contract for professional services shall be presumed to be an independent contractor and not an employee for all purposes if the terms of the contract are consistent with established common law pertaining to independent contractors as reflected in 26 C.F.R., Section 31.312(d)-2.

Added by Laws 2007, c. 193, § 2, eff. Nov. 1, 2007.

§11-8-116. Part-time city manager or planner

Any municipality with a population of less than five thousand (5,000) according to the latest Federal Decennial Census may employ a part-time city manager or a part-time city planner. The duties of the part-time city manager shall be determined by the governing body of the municipality, or pursuant to Section 10-113 of this title for municipalities governed by the council-manager form of government. The duties of the part-time city planner shall be determined by the governing body of the municipality.

Added by Laws 2008, c. 304, § 1, eff. Nov. 1, 2008. Amended by Laws 2009, c. 42, § 1, eff. Nov. 1, 2009; Laws 2016, c. 122, § 1.

§11-9-101. Statutory aldermanic form of government.

The form of government provided by Sections 9-101 through 9-118 of this title shall be known as the statutory aldermanic form of city government. Cities governed under the statutory aldermanic form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to cities. Such powers shall be exercised as provided by law applicable to cities

under the aldermanic form, or if the manner is not thus prescribed, then in such manner as the governing body may prescribe.
Laws 1977, c. 256, § 9-101, eff. July 1, 1978.

§11-9-102. Governing body.

The governing body of a statutory aldermanic city shall consist of the mayor, who is elected at large, and one or two councilmembers from each ward of the city. The governing body may submit to the voters the question of whether one or two councilmembers shall be elected from each ward. If approved, the change shall become effective for the next regular municipal election which shall be conducted in accordance with the provisions of Section 16-202 or 16-204 of this title, whichever is applicable.
Amended by Laws 1984, c. 126, § 10, eff. Nov. 1, 1984.

§11-9-103. Qualifications of governing body members.

The governing body members shall be residents and registered voters of the city, and the councilmembers from wards shall be actual residents of their respective wards at the time of their respective candidacies and elections. Removal of a councilmember from a ward to another ward within the municipality after his or her election, or a change in ward boundaries, shall not disqualify the councilmember from completing the term for which he or she was elected.
Added by Laws 1977, c. 256, § 9-103, eff. July 1, 1978. Amended by Laws 2019, c. 57, § 1, eff. Nov. 1, 2019.

§11-9-104. Mayor - Duties as president of council.

The mayor shall preside at meetings of the council, and shall certify to the correct enrollment of all ordinances and resolutions passed by it. The mayor is not considered a member of the council for quorum or voting purposes; except that he may vote on questions under consideration by the council only when the council is equally divided.
Laws 1977, c. 256, § 9-104, eff. July 1, 1978.

§11-9-105. Mayor- Duties as chief executive officer.

The mayor shall be chief executive officer of the administrative branch of the government of the city. The mayor shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for purposes of military law. The mayor shall:

1. appoint, subject to confirmation by the city council, a city attorney and all heads or directors of administrative departments including members of boards and commissions and shall appoint all other administrative officers and employees of the city; and

2. sign the commissions and appointments of all officers, elected or appointed; and

3. remove or suspend city officers or employees against whom charges of incompetency, neglect, or violation of duty are made, until such time as the council shall take action on the charges; and
4. supervise and control all administrative departments, agencies, officers, and employees, act promptly on a charge of neglect or violation of duty of any officer or employee, and require any officer to account for and report to the council in writing on any subject pertaining to the duties, powers, or functions of the officer when the mayor deems necessary; and
5. prepare a budget annually and submit it to the council. The mayor shall be responsible for the administration of the budget after it goes into effect; and
6. keep the council advised of the financial condition and future needs of the city. The mayor shall submit to the council a report after the end of the fiscal year on the finances and administrative activities of the city for the preceding year; and
7. make recommendations to the council of measures for the well-being of the city; and
8. enforce the city ordinances; and
9. grant pardons for violation of city ordinances, including the remission of fines and costs, subject to the approval of the council. Said approval may only be given at a meeting of the council after the reasons and order of remission or pardon have been entered on the journal; and
10. have such other powers, duties, and functions as may be prescribed by law or by ordinance.
Amended by Laws 1984, c. 126, § 11, eff. Nov. 1, 1984.

§11-9-106. Mayor - Signing ordinances - Veto power.
The mayor may sign or veto any city ordinance or resolution passed by the city council. Any ordinance or resolution vetoed by the mayor may be passed over his veto by a vote of two-thirds (2/3) of all the members of the council. If the mayor neglects or refuses to sign any ordinance or return it with his objections in writing at the next regular meeting of the council, the ordinance shall become law without his signature.
Laws 1977, c. 256, § 9-106, eff. July 1, 1978.

§11-9-107. Election of council president - Duties.
The council shall elect from among its members a president of the city council. The council president shall be elected in each odd-numbered year at the first council meeting held after council terms begin, or as soon thereafter as practicable, and he shall serve until his successor has been elected and qualified. The council president shall act as mayor during the absence, disability or suspension of the mayor. He shall preside at all meetings of the council in the absence of the mayor and while presiding in the place of the mayor,

he shall have all the powers, rights, privileges and duties as other members of the council. In the absence of the mayor and the council president, the council shall elect from among its members an acting president of the city council to occupy the position temporarily.
Laws 1977, c. 256, § 9-107, eff. July 1, 1978.

§11-9-108. Powers vested in council - Designated powers.

Except as otherwise provided in this article, all powers of a statutory aldermanic city, including the determination of matters of policy, shall be vested in the council. Without limitation of the foregoing, the council may:

1. Enact municipal legislation subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

2. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

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

4. Create, change and abolish offices, departments and agencies other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article; and define the duties, powers and privileges of all officers which are not defined by this article.
Laws 1977, c. 256, § 9-108, eff. July 1, 1978.

§11-9-109. Council - Meetings.

The council shall meet regularly at least monthly at such times as it may prescribe by ordinance or otherwise. The mayor or any three (3) councilmembers may call special meetings. The call for special meetings must be in writing and specify the subjects to be considered. No business other than that specified in the call shall be transacted at the special meeting.
Laws 1977, c. 256, § 9-109, eff. July 1, 1978.

§11-9-110. Council - Quorum - Rules and voting.

A majority of all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from day to day. The council shall determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the council may prescribe.
Laws 1977, c. 256, § 9-110, eff. July 1, 1978.

§11-9-111. Vacancy in the office of mayor.

When a vacancy occurs in the office of the mayor less than ninety (90) days before the next regular municipal election, the president

of the city council shall act as mayor until the next regular municipal election, at which time the registered voters of the city shall elect a person to fill any unexpired term, and until a mayor is elected and qualified for office. If the vacancy in the mayor's office occurs more than ninety (90) days before the next regular municipal election, the acting mayor shall cause a special election to be held for the purpose of electing a mayor for the duration of the unexpired term. The acting mayor shall be entitled to receive the same compensation as the mayor would be entitled to.
Laws 1977, c. 256, § 9-111, eff. July 1, 1978.

§11-9-112. City clerk - Creation and duties - Compensation.

The city clerk shall be an officer of the city. The clerk shall serve as clerk for the council. The city clerk shall:

1. keep the journal of the proceedings of the city council; and

2. enroll all ordinances and resolutions passed by the council in a book or set of books kept for that purpose; and

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

4. attest and affix the seal of the city to documents as required by law or by ordinance; and

5. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city clerk may be employed by the city to perform duties not related to his position as city clerk. The salary, if any, for said duties shall be provided for separately by ordinance.

Amended by Laws 1984, c. 126, § 12, eff. Nov. 1, 1984.

§11-9-113. City treasurer - Creation and duties - Compensation.

The city treasurer shall be an officer of the city. Subject to such regulations as the council may prescribe, the city treasurer shall deposit daily funds received for the city in depositories as the council may designate. The city treasurer shall have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city treasurer may be employed by the city to perform duties not related to his position as city treasurer. The salary, if any, for said duties shall be provided for separately by ordinance.
Amended by Laws 1984, c. 126, § 13, eff. Nov. 1, 1984.

§11-9-114. Marshal and street commissioner.

There shall be one marshal and one street commissioner, who shall be officers of the city. The marshal may be the chief of police. The marshal shall have such powers, duties, and functions as may be prescribed by law or by ordinance. The street commissioner may be

the head of the street department. The street commissioner shall have such powers, duties, and functions as may be prescribed by law or by ordinance.
Amended by Laws 1984, c. 126, § 14, eff. Nov. 1, 1984.

§11-9-115. Merger or consolidation of city offices.
The governing body may combine, merge, or consolidate by ordinance any of the various offices of city government as it deems necessary and convenient for the administration of the affairs or government of the city. Any consolidation of elected city offices shall go into effect at the end of the term of office of those officers whose offices are consolidated or when a vacancy occurs in one of the offices to be consolidated. An ordinance consolidating offices must be enacted at least thirty (30) days prior to the date of the next municipal primary election.
Amended by Laws 1984, c. 126, § 15, eff. Nov. 1, 1984.

§11-9-116. Compensation of elective officers.
The compensation of all elective city officers shall be fixed by ordinance.
Added by Laws 1977, c. 256, § 9-116, eff. July 1, 1978. Amended by Laws 1996, c. 79, § 1, eff. Nov. 1, 1996.

§11-9-117. Appointments and removals.
Appointments and promotions in the service of a statutory aldermanic city shall be made solely on the basis of merit and fitness. Removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council may suspend for cause, by a majority vote of all its members, any officer of the city except the mayor. The council by ordinance may establish a system for appointment and removal of employees on the basis of merit. After the council establishes a merit system, it shall adopt regulations governing the organization and functioning of the system, and for the regulation of personnel matters. The ordinance establishing the merit system may not be repealed except upon the approval of a majority of the registered voters voting on the question at a special or general election in the city.
Amended by Laws 1984, c. 126, § 16, eff. Nov. 1, 1984.

§11-9-118. City officials and employees - Suspension or removal - Successors.
An appointed officer or employee may be suspended, demoted, laid off or removed by the mayor. Where appeal procedures have not been established by ordinance, the officer or employee may appeal the action to the city council. The appeal shall be in writing and shall be filed with the clerk of the council within ten (10) days after the effective date of the layoff, suspension, demotion or removal. The

council may affirm, reverse or modify the mayor's decision. The mayor may appoint a person to act during the temporary absence, disability or suspension of such officer or employee, or, in the case of a vacancy, until a successor is appointed and qualified.
Laws 1977, c. 256, § 9-118, eff. July 1, 1978.

§11-10-101. Statutory council-manager form of government.

The form of government provided by Sections 10-101 through 10-121 of this title shall be known as the statutory council-manager form of city government. Cities governed under the statutory council-manager form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to cities. Such powers shall be exercised as provided by law applicable to cities under the statutory council-manager form, or if the manner is not thus prescribed, then in such manner as the council may prescribe.
Laws 1977, c. 256, § 10-101, eff. July 1, 1978.

§11-10-102. Governing body.

The governing body of a statutory council-manager city shall consist of one (1) councilmember from each ward of the city and one (1) councilmember at large.
Laws 1977, c. 256, § 10-102, eff. July 1, 1978.

§11-10-103. Qualifications of councilmembers.

The councilmembers shall be residents and registered voters of the city. The councilmembers from wards shall be actual residents of their respective wards at the time of their candidacy and election; but removal of a councilmember from one ward to another within the city after his election, or a change in ward boundaries, shall not disqualify him from completing the term for which he was elected.
Laws 1977, c. 256, § 10-103, eff. July 1, 1978.

§11-10-104. Election of mayor and vice-mayor.

The council shall elect from among its members a mayor and a vice-mayor. The mayor and vice-mayor shall be elected in each odd-numbered year at the first council meeting held after council terms begin, or as soon thereafter as practicable, and they shall serve until their respective successors have been elected and qualified.
Laws 1977, c. 256, § 10-104, eff. July 1, 1978.

§11-10-105. Duties of mayor and vice-mayor.

The mayor shall preside at meetings of the council, and shall certify to the correct enrollment of all ordinances and resolutions passed by it. He shall be recognized as head of the city government for all ceremonial purposes and by the Governor for purposes of military law. He shall have no regular administrative duties except

that he shall sign all conveyances and other written obligations of the city as the council may require. The vice-mayor shall act as mayor during the absence, disability or suspension of the mayor.
Laws 1977, c. 256, § 10-105, eff. July 1, 1978.

§11-10-106. Powers vested in council - Designated powers.

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

1. Appoint and remove the city manager as provided by law;

2. Enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

3. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

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

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

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

7. Grant pardons for violations of municipal ordinances, including the remission of fines and costs, upon the recommendation of the municipal judge.
Laws 1977, c. 256, § 10-106, eff. July 1, 1978.

§11-10-107. Limitation of council authority to act through city manager.

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

1. Direct or request the city manager or other authority to appoint or remove officers or employees;

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

3. Give orders on ordinary administrative matters to any subordinate of the city manager either publicly or privately.
Laws 1977, c. 256, § 10-107, eff. July 1, 1978.

§11-10-108. Council - Meetings.

The council shall meet regularly at least monthly at such times as it may prescribe by ordinance or otherwise. The mayor or any three councilmembers may call special meetings.
Laws 1977, c. 256, § 10-108, eff. July 1, 1978.

§11-10-109. Council - Quorum - Rules and voting.
A majority of all the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day. The council shall determine its own rules.
Laws 1977, c. 256, § 10-109, eff. July 1, 1978.

§11-10-110. Vacancy in the office of mayor or vice-mayor.
When a vacancy occurs in the office of mayor, the vice-mayor shall become the mayor for the duration of the unexpired term. When a vacancy occurs in the office of vice-mayor, the council shall elect another vice-mayor from among its members for the duration of the unexpired term.
Laws 1977, c. 256, § 10-110, eff. July 1, 1978.

§11-10-111. Compensation of elective officers.
The compensation of all elective city officers shall be fixed by ordinance.
Added by Laws 1977, c. 256, § 10-111, eff. July 1, 1978. Amended by Laws 1996, c. 79, § 2, eff. Nov. 1, 1996.

§11-10-112. City manager - Appointment by council.
The council shall appoint a city manager, a part-time city manager, or a part-time city planner, pursuant to this act, by a vote of a majority of all its members subject to the terms of employment established by the council. It shall choose the city manager, part-time city manager, or part-time city planner solely on the basis of executive and administrative qualifications with special reference to the actual experience in, or the knowledge of, accepted practice in respect to the duties of the office. At the time of appointment, the city manager need not be a resident of the city or state; but during the tenure of holding office the city manager shall reside within the boundaries of the city, the school district or districts that overlap the city boundaries, or within ten (10) miles of the city or school district. City managers, part-time city managers, or part-time city planners may appoint themselves, or the council or other authority may appoint or elect the city manager, part-time city manager, or part-time city planner to other offices and positions in the city government, subject to regulations prescribed by ordinance; but the city manager, part-time city manager, or part-time city planner may not receive compensation for service in such other offices or positions. Neither the mayor nor any members of the city council may be appointed city manager, part-time city manager, or part-time city

planner during the term for which they shall have been elected nor within two (2) years after they cease to hold such office.
Added by Laws 1977, c. 256, § 10-112, eff. July 1, 1978. Amended by Laws 2005, c. 386, § 1, eff. Nov. 1, 2005; Laws 2008, c. 304, § 2, eff. Nov. 1, 2008; Laws 2009, c. 42, § 2, eff. Nov. 1, 2009; Laws 2009, c. 257, § 1, eff. Nov. 1, 2009.

§11-10-113. City manager - Duties.

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

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

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

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

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

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

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

Laws 1977, c. 256, § 10-114, eff. July 1, 1978.

§11-10-114. Designation of acting city manager.

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

1. The manager fails to make such designation;

2. The council suspends the city manager; or

3. There is a vacancy in the office of city manager.

Laws 1977, c. 256, § 10-114, eff. July 1, 1978.

§11-10-115. Suspension or removal of city manager.

The council may suspend or remove the city manager or acting city manager at any time by a vote of a majority of all its members. Laws 1977, c. 256, § 10-115, eff. July 1, 1978.

§11-10-116. Purchases and sales by city manager - Competitive bidding - Transfer of manager's powers.

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

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

C. The council may transfer some or all of the power granted to the city manager pursuant to the provisions of this section to an employee appointed by and subordinate to the city manager. Amended by Laws 1984, c. 126, § 17, eff. Nov. 1, 1984.

§11-10-117. City clerk - Creation and duties - Compensation.

The city clerk shall be an officer of the city, appointed by the city manager for an indefinite term. The city clerk shall serve as clerk for the council. Subject to regulations the council may prescribe, the city clerk shall:

1. keep the journal of the proceedings of the council; and

2. enroll all ordinances and resolutions passed by the council in a book or set of books kept for that purpose; and

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

4. attest and affix the seal of the city to documents as required by law or by ordinance; and

5. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city clerk may be employed by the city to perform duties not related to his position as city clerk. The salary, if any, for said duties shall be provided for separately by ordinance.

Laws 1977, c. 256, § 10-117, eff. July 1, 1978; Laws 1984, c. 126, § 18, eff. Nov. 1, 1984.

§11-10-118. City treasurer - Creation and duties - Compensation.

The city treasurer shall be an officer of the city, appointed by the council for an indefinite term. The council may provide by ordinance that the same person may hold both the office of city clerk and the office of city treasurer. Subject to such regulations as the council may prescribe, the city treasurer shall deposit daily funds received for the city in depositories as the council may designate. The city treasurer shall have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city treasurer may be employed by the city to perform duties not related to his position as city treasurer. The salary, if any, for said duties shall be provided for separately by ordinance.
Amended by Laws 1984, c. 126, § 19, eff. Nov. 1, 1984.

§11-10-119. Departments included in council-manager government.

In a statutory council-manager city, there shall be a police department, a fire department, a department of law headed by a city attorney, and other administrative departments, offices and agencies as the council may establish.
Laws 1977, c. 256, § 10-119, eff. July 1, 1978.

§11-10-120. Appointments and removals.

Appointments and promotions in the service of a statutory council-manager city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council by ordinance may establish a merit system and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters.
Laws 1977, c. 256, § 10-120, eff. July 1, 1978.

§11-10-121. City officials and employees - Suspension or removal - Successors.

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

Laws 1977, c. 256, § 10-121, eff. July 1, 1978.

§11-11-101. Strong-mayor-council form of government.

The form of government provided by Sections 11-101 through 11-125 of this title shall be known as the statutory strong-mayor-council form of city government. Cities governed under the statutory strong-mayor-council form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to cities. Such powers shall be exercised as provided by law applicable to cities under the statutory strong-mayor-council form, or if the manner is not thus prescribed, then in such manner as the council may prescribe.
Laws 1977, c. 256, § 11-101, eff. July 1, 1978.

§11-11-102. Governing body.

The governing body of a statutory strong-mayor-council city shall consist of the mayor, who is elected at large, and one (1) councilmember from each ward of the city. The mayor shall serve as ex officio councilmember at large.
Laws 1977, c. 256, § 11-102, eff. July 1, 1978.

§11-11-103. Qualifications of governing body members.

The governing body members shall be residents and registered voters of the city. The councilmembers from wards shall be actual residents of their respective wards at the time of their candidacy and election; but removal of a councilmember from one ward to another within the city after his election, or a change in ward boundaries, shall not disqualify him from completing the term for which he was elected.
Laws 1977, c. 256, § 11-103, eff. July 1, 1978.

§11-11-104. Election of vice-mayor - Duties.

The council shall elect from among its members a vice-mayor. The vice-mayor shall be elected in each odd-numbered year at the first council meeting held after council terms begin, or as soon thereafter as practicable, and he shall serve until his successor has been elected and qualified. The vice-mayor shall act as mayor during the absence, disability or suspension of the mayor. During the absence, disability or suspension of both the mayor and vice-mayor, the council may elect an acting mayor from among its members to serve as mayor.
Laws 1977, c. 256, § 11-104, eff. July 1, 1978.

§11-11-105. Mayor - Duties as president of council - Temporary council president.

A. The mayor shall preside at meetings of the council and shall certify to the correct enrollment of all ordinances and resolutions

passed by it. As councilmember at large, he shall have all the powers, rights, privileges, duties and responsibilities of a councilmember, including the right to vote on questions.

B. The council may elect any councilmember to preside as temporary president of the council whenever it deems that the mayor has a personal interest in a matter under consideration, or it deems that the mayor is not properly performing his duties as presiding officer. Such temporary president may certify to the correct enrollment of ordinances and resolutions passed while he is presiding.

Laws 1977, c. 256, § 11-105, eff. July 1, 1978.

§11-11-106. Mayor - Duties as chief executive officer.

The mayor shall be chief executive officer and head of the administrative branch of the city government. He shall execute the laws and ordinances, and administer the government of the city. He shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for purposes of military law. He shall:

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

2. Supervise and control, directly or indirectly, all administrative departments, agencies, officers and employees;

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

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

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

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

7. Have such other powers, duties and functions as may be prescribed by law or by ordinance.

Laws 1977, c. 256, § 11-106, eff. July 1, 1978.

§11-11-107. Mayor - Additional offices or duties.

The mayor may appoint himself, or the council or other authority may elect or appoint him, to other offices and positions in the city government, subject to regulations as the council may prescribe; but he may not receive compensation for service in such other offices and positions. The council may provide that the mayor shall hold ex officio designated administrative offices subordinate to the mayor as well as other designated compatible city offices.
Laws 1977, c. 256, § 11-107, eff. July 1, 1978.

§11-11-108. Powers vested in council - Designated powers.

Except as otherwise provided in this article, all powers of a statutory strong-mayor-council city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council may:

1. Enact municipal legislation suject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

2. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

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

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

5. Create, change and abolish offices, departments and agencies other than those established by law, and assign additional functions and duties to offices, departments and agencies established by this article.
Laws 1977, c. 256, § 11-108, eff. July 1, 1978.

§11-11-109. Council - Meetings.

The council shall meet regularly at least monthly at such times as it may prescribe by ordinance or otherwise. The mayor or any three councilmembers may call special meetings.
Laws 1977, c. 256, § 11-109, eff. July 1, 1978.

§11-11-110. Council - Quorum - Rules.

A majority of all the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day. The council may determine its own rules.
Laws 1977, c. 256, § 11-110, eff. July 1, 1978.

§11-11-111. Vacancy in the office of mayor or vice-mayor.

When a vacancy occurs in the office of mayor, the vice-mayor shall act as mayor until a mayor is elected by the council and qualified for office. To fill the vacancy, the council shall elect a registered voter of the city, who may or may not already be a council member at the time, to be mayor until the next general municipal election, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term. However, if less than one (1) year remains of the unexpired term, the council shall elect a registered voter of the city, who may or may not already be a council member at the time, to be mayor for the duration of the unexpired term. When a vacancy occurs in the office of vice-mayor, the council shall elect from among its members another vice-mayor for the duration of the unexpired term.
Added by Laws 1977, c. 256, § 11-111, eff. July 1, 1978. Amended by Laws 1993, c. 9, § 1, eff. Sept. 1, 1993.

§11-11-112. Compensation of elective officers.
The compensation of all elective city officers shall be fixed by ordinance.
Added by Laws 1977, c. 256, § 11-112, eff. July 1, 1978. Amended by Laws 1996, c. 79, § 3, eff. Nov. 1, 1996.

§11-11-113. City clerk - Creation and duties - Compensation.
The city clerk shall be an officer of the city, appointed by the mayor for an indefinite term. The city clerk shall serve as clerk for the council. Subject to regulations the council may prescribe, the city clerk shall:
1. keep the journal of the proceedings of the council; and
2. enroll all ordinances and resolutions passed by the council in a book or books kept for that purpose; and
3. have custody of documents, records, and archives, as may be provided for by law or by ordinance, and have custody of the seal of the city; and
4. attest and affix the seal of the city to documents as required by law or by ordinance; and
5. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city clerk may be employed by the city to perform duties not related to his position as city clerk. The salary, if any, for said duties shall be provided for separately by ordinance.
Amended by Laws 1984, c. 126, § 20, eff. Nov. 1, 1984.

§11-11-114. Appointment of temporary clerk of council.

The council may appoint a temporary clerk of the council to serve during the absence from a meeting of the city clerk and acting city clerk, if any, or when it deems that the city clerk or acting city clerk is not properly performing his duties as clerical officer of the council. The temporary clerk of the council shall keep the journal of its proceedings, certify documents of the council, and perform all other duties and functions as clerical officer of the council, under the direction of the council and its presiding officer.

Laws 1977, c. 256, § 11-114, eff. July 1, 1978.

§11-11-115. City treasurer - Creation and duties - Compensation.

The city treasurer shall be an officer of the city, appointed by the mayor for an indefinite term. The council may provide by ordinance that the same person may hold both the office of city clerk and the office of city treasurer. Said council may also provide by ordinance that the city clerk shall be ex officio city treasurer and that an acting city clerk shall be ex officio acting city treasurer. Subject to such regulations as the council may prescribe, the city treasurer shall deposit daily funds received for the city in depositories as the council may designate. The city treasurer shall have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as city treasurer may be employed by the city to perform duties not related to his position as city treasurer. The salary, if any, for said duties shall be provided for separately by ordinance.

Amended by Laws 1984, c. 126, § 21, eff. Nov. 1, 1984.

§11-11-116. Purchases and sales by mayor - Competitive bidding - Transfer of mayor's powers.

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

B. The council by ordinance may prescribe requirements and procedures for competitive bidding. Notice and opportunity for competitive bidding, in accordance with regulations as the council may prescribe, shall then be given before a purchase or contract for supplies, materials or equipment is made. The council shall not

exempt a particular contract, purchase or sale from the requirement of competitive bidding.

C. The council by ordinance may transfer some or all of the power granted to the mayor by this section to an officer appointed by and subordinate to the mayor.

Laws 1977, c. 256, § 11-116, eff. July 1, 1978.

§11-11-117. Departments and agencies.

In a statutory strong-mayor-council city, there shall be a police department, a fire department, a department of law headed by a city attorney, and such other administrative departments, offices and agencies as the council may establish.

Laws 1977, c. 256, § 11-117, eff. July 1, 1978.

§11-11-118. Appointments and removals - Personnel department.

Appointments and promotions in the service of a statutory strong-mayor-council city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions and layoffs shall be made solely for the good of the service. The council by ordinance may establish a merit system and provide for its organization and functioning, and provide for personnel administration and regulations of personnel matters. If and when the council establishes a merit system, it shall create a personnel department, the head of which shall be a personnel director appointed by the mayor for an indefinite term. The mayor may serve also as personnel director.

Laws 1977, c. 256, § 11-118, eff. July 1, 1978.

§11-11-119. Personnel board - Membership and tenure.

In a statutory strong-mayor-council city, there shall be a personnel board consisting of three members elected by the council for staggered six-year terms. The council shall elect the three original members so that the term of one member will expire in each succeeding even-numbered year. The term of their successors shall be for six (6) years, beginning at 7:30 o'clock p.m. on the first Monday in May in every even-numbered year. Members shall serve until their successors are elected and qualified, and they shall serve without compensation unless the council provides otherwise. The council, by a vote of a majority of its members, after adequate opportunity for a public hearing, may remove a member for the good of the service, and may fill vacancies for the unexpired term.

Laws 1977, c. 256, § 11-119, eff. July 1, 1978.

§11-11-120. Personnel board - Officers and meetings.

At the time prescribed for the beginning of the term of a newly elected member or as soon thereafter as practicable, the members of the personnel board shall elect a chairman, a vice-chairman and a secretary. The secretary need not be a member of the board. The

board shall determine the time and place of its regular meetings, and the chairman or two members may call special meetings of the board.
Laws 1977, c. 256, § 11-120, eff. July 1, 1978.

§11-11-121. Classified and unclassified service.

All officers and employees of a statutory strong-mayor-council city shall be divided into the classified and the unclassified service. The unclassified service shall consist of:

1. The mayor and councilmembers, one secretary of the mayor, if any, the municipal judge, and one clerk or secretary of the municipal court, if any;

2. All personnel appointed, elected or confirmed by the council;

3. Members and secretaries of boards, commissions and other plural authorities; 4. All personnel who serve without compensation; and

5. Persons appointed or employed on a temporary basis to make or conduct a special audit, inquiry, investigation, study, examination or installation, or to perform a temporary professional or technical service, subject to exclusions, limitations and regulations as may be prescribed by ordinance or personnel rules.

All other officers and employees shall be in the classified service.
Laws 1977, c. 256, § 11-121, eff. July 1, 1978.

§11-11-122. Political appointments or promotions prohibited - Review of alleged violations.

A. Neither the mayor nor any other appointing authority may appoint or promote any person to any office or position in the classified service of the city for any political reason nor for any reason other than merit and fitness.

B. A qualified elector of the city may bring an alleged violation of this section before the city personnel board for consideration and determination. Alleged violations shall be made in the form of a sworn complaint charging that a designated person has been appointed or promoted to an office or position in the classified service in violation of this section. The complaint shall be filed with the secretary or chairman of the personnel board not later than sixty (60) days after the effective date of such appointment or promotion, and shall be accompanied by a deposit of Twenty Dollars ($20.00) for payment of costs. The personnel board shall provide adequate opportunity for a public hearing on the complaint. If the board finds to its satisfaction that the appointment or promotion was made in violation of this section, it shall veto the appointment or promotion. The appointment or promotion shall thereby be nullified and the money deposit shall be returned to the complainant.
Laws 1977, c. 256, § 11-122, eff. July 1, 1978.

§11-11-123. Political activity prohibited for officers and employees in classified service - Removal for violations.

A. No officer or employee in the classified service of a statutory strong-mayor-council city may actively influence, or actively attempt to influence, or work actively for, the nomination, election or defeat of any candidate for mayor or councilmember; but this shall not prohibit the ordinary exercise of one's right as a citizen to express his opinions and to vote. An officer or employee who violates this section shall be removed from office or position either by the authority normally having power to remove him, or, after adequate opportunity for a public hearing, by the personnel board. An officer or employee who violates this section shall not hold any office or position in the city government for a period of four (4) years thereafter.

B. A qualified elector of the city may bring an alleged violation of this section before the personnel board for consideration and determination. Alleged violations shall be made in the form of a sworn complaint charging an officer or employee with such violation. The complaint shall be filed with the secretary or chairman of the personnel board and shall be accompanied by a deposit of Twenty Dollars ($20.00) for payment of costs. If the personnel board finds to its satisfaction that the officer or employee has violated this section prohibiting political activity, it shall remove him from office or position, and the money deposit shall be returned to the complainant.

Laws 1977, c. 256, § 11-123, eff. July 1, 1978.

§11-11-124. City officials and employees - Suspension or removal - Successors.

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

Laws 1977, c. 256, § 11-124, eff. July 1, 1978.

§11-11-125. Removal of employees in classified service - Procedure.

Whenever the mayor or other authority lays off, suspends without pay, demotes or removes an officer or employee in the classified service who has completed a probationary period of six (6) months, the following procedure shall apply:

1. The mayor or other appointing authority shall deliver, or mail by certified mail, a written statement of the causes for the layoff, suspension, demotion or removal to the officer or employee not later than three (3) days after the effective date of the personnel action;

2. The officer or employee may appeal the action to the personnel board. The appeal must be in writing, and must be filed with the secretary or chairman of the personnel board within ten (10) days after the effective date of the layoff, suspension, demotion or removal;

3. The personnel board shall hold a public hearing on the appeal, or give an adequate opportunity therefor, as soon as practicable after an appeal has been filed;

4. The personnel board shall report in writing its findings and recommendations to the mayor, where the appellant is a subordinate of the mayor, or to the respective authority having power of removal; and

5. The mayor or other authority having power of removal shall make the final decision in writing regarding the appellant's layoff, suspension, demotion or removal; but if the personnel board finds to its satisfaction that the layoff, suspension, demotion, or removal was made for a political reason or for any reason other than the good of the service, it shall veto the layoff, suspension, demotion or removal, and the action by the mayor or other authority shall be nullified thereby.

Laws 1977, c. 256, § 11-125, eff. July 1, 1978.

§11-12-101. Statutory town board of trustees form of government.

The form of government provided by Sections 12-101 through 12-114 of this title shall be known as the statutory town board of trustees form of government. Towns governed under the statutory town board of trustees form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to towns. Such powers shall be exercised as provided by law applicable to towns under the town board of trustees form, or if the manner is not thus prescribed, then in such manner as the board of trustees may prescribe.

Laws 1977, c. 256, § 12-101, eff. July 1, 1978.

§11-12-102. Governing body - Board of trustees - Terms.

The town board of trustees shall consist of either three (3) or five (5) trustees who shall be nominated from wards or at large and elected at large. The governing body may submit to the voters the question of whether the town board shall consist of either three (3) or five (5) trustees. If approved, the election of trustees to fill any new positions shall take place at the time set by the town board but no later than the next regular municipal election. The terms of

the new trustees shall be staggered as provided for in Sections 16-205 and 16-206 of this title.
Amended by Laws 1984, c. 126, § 22, eff. Nov. 1, 1984.

§11-12-103. Qualifications of trustees.

The trustees who are nominated from wards shall be actual residents of their respective wards. Removal of a trustee from the ward for which he was elected shall not cause a vacancy in the office of that trustee.
Laws 1977, c. 256, § 12-103, eff. July 1, 1978; Laws 1981, c. 14, § 2.

§11-12-103.1. Nomination and election of at large trustees - Ordinance - Petition.

A. The board of trustees may, by ordinance, provide for the nomination and election at large of the trustees of a statutory town board of trustees form of government; provided, however, that such ordinance shall not become effective until sixty (60) days following the date of its publication. After the ordinance becomes effective, the requirement that trustees of a town be residents of and nominated from wards shall not apply.

B. Within such sixty-day period, the registered voters of such town may petition for an election on the question of nominating and electing the trustees at large. The petition shall be signed by a number of such registered voters that is not less than twenty percent (20%) of the votes cast at the most recent election for the town office receiving the greatest number of votes. The petition shall be filed with the town clerk. The ordinance providing for the nomination and election of trustees at large shall be suspended pending the determination of the sufficiency of the number of signatures on the petition or the determination of the results of the election.

C. Each petition filed with the town clerk shall be on a separate sheet and shall be authenticated by the affidavit of at least one credible witness that the signatures are genuine and that the signers of the petition are registered voters of the town. The clerk shall make a physical count of the number of signatures appearing on the petitions and shall verify with the county election board the number of votes cast at the most recent town election for the office receiving the greatest number of votes. The clerk shall then publish a notice of the filing and the apparent sufficiency or insufficiency of the petition. The notice shall also state that any qualified elector of the town may file a protest to the petition or an objection to the count made by the clerk. A protest to the petition or the count of signatures shall be filed in the district court in the county in which the situs of the town is located within ten (10) days after the publication. Written notice of the protest

shall be served upon the clerk and the parties who filed the petition. In the case of the filing of an objection to the count, notice shall also be served upon any party filing a protest. The district court shall fix a day, not less than ten (10) days after the filing of a protest, to hear testimony and arguments for and against the sufficiency of the petition. A protest filed by anyone, if abandoned by the party filing it, may be revived within five (5) days by any other qualified elector. After the hearing, the district court shall decide whether such petition is in form required by law. If the number of signatures on the petition is insufficient, the ordinance shall become effective.

D. If the number of signatures of the registered voters on the petition is sufficient, an election on the question shall be conducted as provided in the applicable sections of Article 16 of this title. The question on the ballot shall read substantially as follows:

For the nomination and election of trustees at large ( )
Against the nomination and election of trustees at large ( )

E. If a majority of the votes cast on the question favor the nomination and election of trustees at large, the ordinance shall become effective. If a majority of the votes cast on the question are against the nomination and election of the trustees at large, the ordinance shall not become effective.

Laws 1981, c. 14, § 3.

§11-12-103.2. Notice of at large election of trustees - Ballot - Candidate elected.

A. Whenever the trustees of a town are to be nominated and elected at large, the notice of election shall state the number of trustees to be elected for four-year terms and the number of trustees to be elected to fill unexpired terms, if any. Candidates for the office of trustee shall state on the declaration of candidacy the term of the office being sought.

B. The ballot shall state the number of offices of trustee to be filled for each designated term and that the voters shall vote for the number of offices to be filled.

C. The candidate who receives a plurality of the votes cast for the office of trustee for the designated term shall be elected for that designated term. If more than one office of trustee is to be filled for a designated term, the candidates receiving the largest pluralities shall be elected to those offices.

Laws 1981, c. 14, § 4.

§11-12-104. Election of mayor.

The board of trustees shall elect from among its members a mayor. The mayor shall be elected in each odd-numbered year at the first board of trustees meeting held after trustee terms begin, or as soon thereafter as practicable. The mayor shall serve until his successor has been elected and qualified. All references to the president of the town board of trustees in Oklahoma Statutes shall mean the town mayor.
Laws 1977, c. 256, § 12-104, eff. July 1, 1978.

§11-12-105. Duties of the mayor - Acting mayor.

The mayor shall preside at meetings of the board and shall certify to the correct enrollment of all ordinances and resolutions passed by it. He shall be recognized as head of the town government for all ceremonial purposes and shall have such other powers, duties and functions as may be prescribed by law or ordinance. The mayor shall have all the powers, rights, privileges, duties and responsibilities of a trustee, including the right to vote on questions. During the absence, disability or suspension of the mayor, the board shall elect from among its members an acting mayor. When a vacancy occurs in the office of mayor, the board shall elect another mayor from among its members to serve for the duration of the unexpired term.
Laws 1977, c. 256, § 12-105, eff. July 1, 1978.

§11-12-106. Powers vested in board of trustees - Designated powers.

All powers of a statutory town board of trustees town, including the determination of matters of policy, shall be vested in the board of trustees. Without limitation of the foregoing, the board may:

1. Appoint and remove, and confirm appointments of, designated town officers and employees as provided by law or ordinance;

2. Enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

3. Raise revenue, establish rates for services and taxes, make appropriations, regulate salaries and wages and all other fiscal affairs of the town, subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

4. Inspect the books and accounts maintained by the town treasurer;

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

6. Create, change and abolish offices, departments or agencies, other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article; and define the duties, powers and privileges of all officers which are not defined by this article; and

7. Grant pardons for violation of municipal ordinances, including the remission of fines and costs.
Laws 1977, c. 256, § 12-106, eff. July 1, 1978.

§11-12-107. Board of trustees - Meetings.
The board of trustees shall meet regularly at least monthly at such times as it may prescribe by ordinance or otherwise. Special meetings may be called by the mayor or:
1. Any two trustees where the board has three members; or
2. Any three trustees where the board has five members.
Laws 1977, c. 256, § 12-107, eff. July 1, 1978.

§11-12-108. Board of trustees - Quorum - Rules and voting.
A majority of all the members of the board of trustees shall constitute a quorum to do business, but a smaller number may adjourn from day to day. The board may determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the board may prescribe.
Laws 1977, c. 256, § 12-108, eff. July 1, 1978.

§11-12-109. Town clerk - Creation and duties - Compensation.
The town clerk shall be an officer of the town. The town clerk shall:
1. keep the journal of the proceedings of the board of trustees; and
2. enroll all ordinances and resolutions passed by the board of trustees in a book or set of books kept for that purpose;and
3. have custody of documents, records, and archives, as may be provided for by law or by ordinance, and have custody of the town seal; and
4. attest and affix the seal of the town to documents as required by law or by ordinance; and
5. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as town clerk may be employed by the town to perform duties not related to his position as town clerk. The salary, if any, for said duties shall be provided for separately by ordinance.
Amended by Laws 1984, c. 126, § 23, eff. Nov. 1, 1984.

§11-12-110. Town treasurer - Creation and duties - Compensation.
The town treasurer shall be an officer of the town. The town treasurer shall:
1. maintain accounts and books to show where and from what source all monies paid to him have been derived and to whom and when any monies have been paid; and

2. deposit daily funds received for the town in depositories as the board of trustees may designate; and

3. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as town treasurer may be employed by the town to perform duties not related to his position as town treasurer. The salary, if any, for said duties shall be provided for separately by ordinance.

The books and accounts of the town treasurer shall be subject at all times to examination by the board of trustees.

Amended by Laws 1984, c. 126, § 24, eff. Nov. 1, 1984.

§11-12-111. Chief of police - Creation and duties.

The board of trustees may appoint a chief of police, who shall enforce municipal ordinances and have such other powers, duties and functions as may be prescribed by law or ordinance. The chief of police may appoint police officers as he deems necessary, subject to the approval and confirmation of the board of trustees. All references in Oklahoma Statutes to the town marshal shall mean the town chief of police.

Laws 1977, c. 256, § 12-111, eff. July 1, 1978; Laws 1979, c. 44, § 2, emerg. eff. April 9, 1979.

§11-12-112. Departments and agencies - Merger or consolidation of town offices.

In the town board of trustees form of government, there shall be such administrative departments, officers, and agencies as the board may establish. The board may combine, merge, or consolidate by ordinance any of the various offices of town government as it deems necessary and convenient for the administration of the affairs or government of the town. Any consolidation of elected town offices shall go into effect at the end of the term of office of those officers whose offices are consolidated or when a vacancy occurs in one of the offices to be consolidated. An ordinance consolidating offices must be enacted at least thirty (30) days prior to the date of the next municipal primary election.

Amended by Laws 1984, c. 126, § 25, eff. Nov. 1, 1984.

§11-12-113. Compensation of town elective officers.

The compensation of all elective town officers shall be fixed by ordinance.

Laws 1977, c. 256, § 12-113, eff. July 1, 1978.

§11-12-114. Appointments and removals.

Appointments and promotions in the service of a statutory town board of trustees government shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs

shall be made solely for the good of the service. The board by ordinance may establish a merit system and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters. The board of trustees may remove for cause any appointive officer by a majority vote of all its members.
Laws 1977, c. 256, § 12-114, eff. July 1, 1978.

§11-13-101. Municipalities may adopt charter.

Any city or town containing a population of two thousand (2,000) inhabitants or more, as shown by the latest federal census or other census recognized by the laws of Oklahoma, may frame a charter for its own government.
Laws 1977, c. 256, § 12-101, eff. July 1, 1978.

§11-13-102. Procedure for adopting charters - Petition or governing body resolution.

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

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

2. The governing body, by resolution, so directs.

The order calling for the election shall be issued within ten (10) days after a petition has been filed with the governing body or within ten (10) days after the date of the governing body resolution.
Laws 1977, c. 256, § 13-102, eff. July 1, 1978.

§11-13-103. Election on question and board of freeholders.

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

Shall the _____ (City or Town) of _____ frame a charter for its own government?

( ) Yes.
( ) No.

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

the board of freeholders. The ballot shall be substantially in the following form:

For Freeholder from Ward One
(Vote for Two)

_____Name of candidate for freeholder
_____Name of candidate for freeholder.

Laws 1977, c. 256, § 13-103, eff. July 1, 1978.

§11-13-104. Canvassing returns - Certification of results.

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

Added by Laws 1977, c. 256, § 13-104, eff. July 1, 1978.

§11-13-105. Preparation of charter.

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

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

Laws 1977, c. 256, § 13-105, eff. July 1, 1978.

§11-13-106. Notice of charter election.

Within twenty (20) days after receipt of the proposed charter from the board of freeholders, the governing body shall publish the proposed charter and an announcement of the date for the charter election in a newspaper of general circulation within the municipality once per week for three (3) consecutive weeks. The date for the charter election shall not be less than twenty (20) days nor more than thirty (30) days after the last publication.

Added by Laws 1977, c. 256, § 13-106, eff. July 1, 1978. Amended by Laws 1996, c. 16, § 1, eff. Nov. 1, 1996.

§11-13-107. Charter election - Certification of results - Approval by Governor.

The question of whether or not the municipality shall adopt the proposed charter shall be submitted to the registered voters of the municipality at a general or special election. If a majority of the

votes cast, as certified by the secretary of the county election board, are in favor of adopting the charter, the charter shall then be certified by the mayor of the municipality and authenticated by the seal of the municipality. The submission to and approval by the registered voters shall be set forth on the charter. The charter shall then be submitted to the Governor for his approval, and the Governor shall approve the charter if it is not in conflict with the Constitution and laws of Oklahoma. Upon his approval, the charter shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it.
in conflict with it.
Laws 1977, c. 256, § 13-107, eff. July 1, 1978.

§11-13-108. Deposit of copies for record - Judicial notice.
After the approval of the charter by the Governor, duplicate copies shall be made and one shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the county clerk of the county in which the situs of the municipality is located, shall be deposited in the archives of the municipality. Thereafter the charter shall be judicially noticed in all court proceedings.
Laws 1977, c. 256, § 13-108, eff. July 1, 1978.

§11-13-109. Charter controls over conflicting laws.
Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict.
Laws 1977, c. 256, § 13-109, eff. July 1, 1978.

§11-13-110. Payment of expenses for framing and adopting charter.
All charter election expenses shall be paid by the municipality. The municipality may provide for the payment of the expenses incurred by the board of freeholders in the framing of the charter.
Amended by Laws 1984, c. 126, § 24, eff. Nov. 1, 1984. d

§11-13-111. Charter amendments - Procedure.
Amendments to a municipal charter may be proposed by:
1. An initiative petition, signed by a number of the registered voters residing in the municipality equal to at least twenty-five percent (25%) of the total number of votes cast at the preceding general election. Charter amendments proposed by initiative petition shall be governed in all respects by the provisions of Sections 15-101 through 15-110 of this title; or
2. A resolution of the municipal governing body. Notice of charter amendments proposed by resolution and the election on them

shall be in the same manner provided for adoption of municipal charters as set forth in Sections 13-106 and 13-107 of this title, except that only the article that contains the proposed charter amendments needs to be published and considered pursuant to those sections.
If a majority of the votes cast in the election on the charter amendments, as certified by the secretary of the county election board, are in favor of adopting the proposed amendments to the charter, the charter shall be so amended, certified and authenticated by the mayor, and submitted to the Governor for approval. The Governor shall approve the charter amendments if they are not in conflict with the Constitution and laws of Oklahoma. Upon approval, the charter as amended shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it. The charter amendments shall be filed and recorded in the same manner provided for filing of municipal charters.
Added by Laws 1977, c. 256, § 13-111, eff. July 1, 1978. Amended by Laws 2006, c. 301, § 3, eff. Nov. 1, 2006.

§11-13-112. Revocation or abolishment of charter - Adopting statutory form - Procedure.

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

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

( ) Yes.
( ) No.

Laws 1977, c. 256, § 13-112, eff. July 1, 1978.

§11-13-113. Charter revocation - Canvassing returns - Proclamation of Governor - Election of officers.

The secretary of the county election board shall, within five (5) days after the canvass of the returns of the election, certify to the Governor the results of the vote on the question. If a majority of the votes cast are in favor of revoking the charter, the Governor, within twenty (20) days after receiving the certification, shall issue a proclamation stating that the municipality has revoked its charter and adopted the statutory form of municipal government specified in the question. The proclamation of the Governor shall also direct the governing body of the municipality to divide the

municipality into the number of wards required and to hold primary and general elections in the manner provided by the statutory form of government which has been adopted. From the date of the Governor's proclamation, the charter of the municipality shall be revoked, and the municipality shall be governed under the laws relating to the statutory form of government which the municipality has adopted.
Laws 1977, c. 256, § 13-113, eff. July 1, 1978.

§11-13-114. Special charter provisions relating to abandonment of municipal charters.

Where a municipality has adopted a charter containing a special provision to the effect that at the expiration of a specified period after the adoption of the charter the governing body may submit to the registered voters of the municipality the question of whether or not the charter shall be abandoned and the municipality governed under a statutory form of government, and the specified time has expired and the governing body has failed to submit the question, then the question shall be submitted to the registered voters at the next election which may be held in the municipality. The secretary of the county election board shall submit the question substantially in the language of the charter provision. If a majority of the votes cast, as certified by the secretary of the county election board, are in favor of abandoning the charter and adopting a statutory form, the results of the election shall be certified to the Governor in the manner provided for revocation of charters.
Laws 1977, c. 256, § 13-114, eff. July 1, 1978.

§11-13-115. Compensation of elective city officers.

Where a municipality has adopted a charter and the charter does not address compensation of elective city officers, the compensation of such elective city officers may be fixed by ordinance.
Added by Laws 1996, c. 79, § 4, eff. Nov. 1, 1996.

§11-13-116. Ordinances relating to elected law enforcement officers.

No municipality shall adopt an ordinance restricting or expanding the powers and duties, supervisory and management authority, or the regulation of day-to-day activities of a duly elected law enforcement officer unless such authority is specifically granted by the municipal charter of said municipality.
Added by Laws 2015, c. 373, § 1, eff. Nov. 1, 2015.

§11-14-101. Municipal ordinances - Authority.

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

ordinances, rules or regulations may be repealed, altered or amended as the governing body ordains.
Laws 1977, c. 256, § 14-101, eff. July 1, 1978.

§11-14-101.1. Rent control - Prohibition.

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

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

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

2. entering into agreements with private persons which regulate the amount of rent charged for subsidized rental properties; or

3. enacting ordinances or resolutions restricting rent for properties assisted with federal Community Development Block Grant Funds.

Added by Laws 1988, c. 38, § 1, emerg. eff. March 21, 1988.

§11-14-102. Ordinances - Procedure governing passage.

All proposed ordinances of a municipality shall be considered at a public meeting of the council or board of trustees. A vote of a majority of all the members of the council or board of trustees shall be required for the final passage of an ordinance.
Laws 1977, c. 256, § 14-102, eff. July 1, 1978.

§11-14-103. Effective date of municipal ordinances - Emergency measures.

Every ordinance except an emergency ordinance shall go into effect thirty (30) days after its final passage unless it specifies a later date. An emergency measure necessary for the immediate preservation of peace, health, or safety shall go into effect upon its final passage unless it specifies a later date. Such an emergency measure must state in a separate section the reasons why it is necessary that the measure become effective immediately. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least three-fourths (3/4) of all the members of the governing body of the municipality.
Amended by Laws 1984, c. 126, § 26, eff. Nov. 1, 1984.

§11-14-104. Style of ordinances - Title and subject - Enacting clause

An ordinance may contain only one subject and the subject shall be expressed in its title. The enacting clause of all ordinances passed by a municipal governing body shall be: 1. "Be it ordained

by the Council of the City of _____", for city ordinances; or 2. "Be it ordained by the Board of Trustees of the Town of _____", for town ordinances. The enacting clause of ordinances proposed by the voters under their powerof initiative shall be "Be it ordained by the People of the _____ (City of Town) of _____".
Laws 1977, c. 256, § 14-104, eff. July 1, 1978.

§11-14-105. Ordinance book - Entries.

Every ordinance enacted by a municipal governing body shall be entered in an ordinance book immediately after its passage. The entry shall contain the text of the ordinance and shall state the date of its passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which the ordinance was published, and the date of the publication. Compilations or codes of municipal law or regulations need not be enrolled in full in the book of ordinances, but the ordinance adopting by reference or enacting such compilation or code shall be entered and a copy of the compilation or code shall be filed and kept in the office of the municipal clerk.
Amended by Laws 1984, c. 126, § 27, eff. Nov. 1, 1984.

§11-14-106. Publication of ordinances.

No ordinance having any subject other than the appropriation of monies shall be in force unless published or posted within fifteen (15) days after its passage. Every municipal ordinance shall be published at least once in full, except as provided for in Section 14-107 of this title. When publishing the ordinance, the publisher or managing officer of the newspaper shall prefix to the ordinance a line in brackets stating the date of publication as "Published _____", giving the month, day, and year of publication.
Amended by Laws 1984, c. 126, § 28, eff. Nov. 1, 1984.

§11-14-107. Publication of certain codes and ordinances by title and summary of contents.

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

B. A municipality which adopts building standards shall adopt and enforce codes adopted by the Oklahoma Uniform Building Code Commission.

C. Nothing in this act shall prevent or take away from any city, town or county the authority to enact and enforce rules containing higher standards and requirements than the codes adopted by the Oklahoma Uniform Building Code Commission nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions except as provided in subsection D of this section.

D. A city, town or county may begin enforcing the higher standards and requirements allowed in subsection C of this section no less than thirty (30) days after submitting the higher standards and requirements to the Oklahoma Uniform Building Code Commission in such form as the Commission may prescribe.

E. Ordinances which are passed by the governing body with an emergency clause attached are not required to be published in full, but may be published by title only in the manner provided by Section 14-106 of this title.

Added by Laws 1977, c. 256, § 14-107, eff. July 1, 1978. Amended by Laws 1979, c. 144, § 1, emerg. eff. May 8, 1979; Laws 1984, c. 126, § 29, eff. Nov. 1, 1984; Laws 2002, c. 407, § 1, eff. Nov. 1, 2002; Laws 2009, c. 80, § 1, eff. Nov. 1, 2009; Laws 2009, c. 439, § 1, emerg. eff. June 2, 2009.

§11-14-108. Codification of municipal ordinances.

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

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

C. Notice of the publication of the code shall be in the manner provided for publication by title of certain codes and ordinances in subsection A of Section 14-107 of this title.
Laws 1977, c. 256, § 14-108, eff. July 1, 1978.

§11-14-109. Mandatory compilation of penal ordinances.

The penal ordinances of every municipality shall be compiled and published in a permanent form, either printed or typed, periodically, but not less than once each ten (10) years. Each municipality shall also publish biennial supplements to the permanent volume of compiled penal ordinances. No municipal ordinance shall be enforced if it is not reflected in such a permanent volume or supplement if the ordinance was adopted before the latest compilation or supplement. A codification of municipal ordinances which includes all penal ordinances is sufficient for complying with this compilation requirement if the code is issued as a permanent volume with biennial supplements and if the procedures for filing and notice, as outlined in Section 14-110 of this title, have been complied with. Provided, further, the ten-year codification requirement shall be satisfied if the code complies with the compilation requirement and the biennial supplements are made a part of the permanent volume which are maintained in permanent form either bound or in a loose-leaf form.
Laws 1977, c. 256, § 14-109, eff. July 1, 1978; Laws 1979, c. 44, § 3, emerg. eff. April 9, 1979.

§11-14-110. Notice and filing of penal ordinance compilation - Judicial notice.

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

Amended by Laws 1985, c. 87, § 1, eff. Nov. 1, 1985; Laws 1989, c. 104, § 2, emerg. eff. April 25, 1989.

§11-14-111. Enforcement and penalties for violation of municipal ordinances.

A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by subsections B through D of this section, for any offense in violation of its ordinances, which shall be recoverable together with costs of suit. The governing body may provide that any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas, and public grounds of the municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Fifty Dollars ($50.00) per day for useful labor, until the fine or costs are satisfied.

B. 1. Except for municipal ordinances related to prostitution and as otherwise provided in this section, cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Dollars ($1,200.00) and costs or imprisonment not exceeding six (6) months or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for alcohol-related or drug-related traffic offenses. The court shall remit Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. The sum of Fifteen Dollars ($15.00) shall be assessed in every case for violations of municipal ordinances relating to the offense of driving under the influence of alcohol or other intoxicating substance and shall be remitted to the credit of the Oklahoma Impaired Driver Database Revolving Fund created pursuant to Section 8 of this act.

2. For violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, a municipal criminal court of record may enact ordinances prescribing an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment as well as a term of community service of not less than forty (40) nor more than eighty (80) hours.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines pursuant to the provisions of this subsection. A municipal ordinance may not impose a penalty, including fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars ($200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars ($800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars ($750.00). The court shall remit Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. The ordinances may prescribe costs pursuant to the provisions of Section 27-126 of this title or imprisonment not exceeding sixty (60) days or both the fine and imprisonment; provided, that municipalities having only a municipal court not of record shall not have authority to enact any ordinance making unlawful any act or omission declared by state statute to be punishable as a felony; provided further, that municipalities having a municipal court not of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

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

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

F. No municipality may levy a fine of more than Ten Dollars ($10.00) nor court costs of more than Fifteen Dollars ($15.00) for exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System of Interstate and Defense Highways, federal-aid primary highways, and the state highway system which are located on the outskirts of any municipality as determined in Section 2-117 of Title 47 of the Oklahoma Statutes. Added by Laws 1977, c. 256, § 14-111, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 1, eff. Oct. 1, 1980; Laws 1982, c. 157, § 1; Laws 1983, c. 293, § 1, operative Oct. 1, 1983; Laws 1990, c. 141, § 1, eff. Sept. 1, 1990; Laws 1998, c. 322, § 3, eff. Nov. 1, 1998; Laws 1999, c. 412, § 1, eff. Nov. 1, 1999; Laws 2002, c. 120, § 5, emerg. eff. April 19, 2002; Laws 2004, c. 173, § 1, eff. Nov. 1, 2004; Laws 2006, c. 61, § 2, eff. July 1, 2006; Laws 2008, c. 413, § 1, eff. Nov. 1, 2008; Laws 2016, c. 172, § 2, eff. Nov. 1, 2016.

§11-14-111.1. Retention of penalty assessments or other state fees.

A. Notwithstanding any other provision of law, a municipal court which collects a penalty assessment or other state fee from a defendant pursuant to state law may retain eight cents ($0.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in state law. The fee shall be deposited as determined by the municipal governing body.

B. A municipal court in a municipality having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers may retain as an administrative fee two percent (2%) of any penalty assessment or other state fee imposed by state statute. The two percent (2%) administrative fee shall be deducted from the portion of the penalty assessment or other state fee retained by such municipality. Added by Laws 2001, c. 258, § 1, eff. July 1, 2001. Amended by Laws 2001, c. 404, § 1, eff. Nov. 1, 2001.

§11-14-112. Cancellation or denial of driving privileges for noncompliance with municipal court sentence.

A. As used in this section:

1. "Department" means the Department of Public Safety;

2. "Notification form" means a form prescribed by the Department which contains a statement from the court that the person has failed to satisfy the sentence of the court. It shall include the name, date of birth, physical description, and the driver license number, if any, of the person;

3. "Reinstatement form" means a form prescribed by the Department which contains a statement from the court that the person has satisfied the sentence of the court. It shall include sufficient information to identify the person to the Department;

4. "Sentence" means any order of the court to pay a fine, penalty assessment or costs or to carry out a term of community service or other remedial action.

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

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

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

Added by Laws 1990, c. 299, § 1, eff. Sept. 1, 1990. Amended by Laws 1999, c. 139, § 1, eff. Nov. 1, 1999.

§11-14-113. Liability for cost of medical care to defendant in custody of municipal officer.

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

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

Added by Laws 1990, c. 299, § 2, eff. Sept. 1, 1990. Amended by Laws 1999, c. 217, § 1, eff. Nov. 1, 1999.

§11-14-114. Municipal governing body - Rewards - Reward fund.

A. A municipal governing body is authorized to offer and pay a reward, from municipal funds, in an amount not to exceed One Thousand Dollars ($1,000.00) for the arrest and conviction, or for evidence leading to the arrest and conviction of any person stealing or defacing municipal road signs or other municipal owned property.

B. The municipal governing body may create and maintain a reward fund from which to pay the rewards provided for in subsection A of this section. The municipal governing body shall determine the amount and source of funds necessary to pay the rewards authorized in subsection A of this section.

C. Any person convicted of theft or defacing municipal road signs or other municipal owned property may, in lieu of other fines and penalties, be required to deposit like amount into the reward fund established pursuant to this section.

D. A municipal governing body shall not be required to provide rewards or create a reward fund pursuant to the provisions of this section.

Added by Laws 2009, c. 47, § 1, emerg. eff. April 14, 2009.

§11-15-101. Initiative and Referendum - Powers.

The powers of initiative and referendum, reserved by the Oklahoma Constitution to the people, are reserved to the people of every municipal corporation with reference to all legislative authority which it may exercise and amendments to municipal charters.

Laws 1977, c. 256, § 15-101, eff. July 1, 1978.

§11-15-102. Procedure for initiative and referendum in municipalities.

The procedure in municipalities which do not provide by ordinance or charter for the manner of exercising the initiative and referendum powers shall be governed by the Oklahoma Constitution and general state law, except as otherwise provided in Sections 15-101 through 15-110 of this title. The duties required of the Governor by state law shall be performed by the mayor; the duties of the Secretary of State shall be performed by the municipal clerk; and the duties of the Attorney General shall be performed by the attorney for the municipality. The procedure for initiative and referendum as to municipal legislation shall be as nearly as practicable the same as those for measures relating to the people of the state at large.

Laws 1977, c. 256, § 15-102, eff. July 1, 1978.

§11-15-103. Petition - Form - Signatures - Time for filing.

A. The form of the petition for either initiative or referendum in a municipality shall be substantially as provided in Sections 1 and 2 of Title 34 of the Oklahoma Statutes. A true copy of each measure proposed by initiative and referendum shall be filed with the clerk of the municipality before it is circulated and signed by the registered voters.

B. Every petition for either the initiative or referendum shall be signed by a number of the registered voters residing in the municipality equal to at least twenty-five percent (25%) of the total number of votes cast at the most recent preceding general municipal election or biennial town meeting if the municipality is subject to the Oklahoma Town Meeting Act. The signatures to each petition shall be verified in the manner provided by law.

C. Signed copies of an initiative petition shall be submitted to the clerk within ninety (90) days after the initial filing of the measure with the clerk. Signed copies of a petition invoking a referendum upon any ordinance or resolution shall be submitted to the clerk within sixty (60) days after the passage of the ordinance or resolution. Amendments to municipal charters may be proposed by an initiative petition, and signed copies of such petition shall be submitted to the clerk not less than sixty (60) days before the election at which the amendments are to be voted upon.

D. For the purposes of this section, "total number of votes cast" shall mean the sum of the votes cast for all candidates in the race for the highest-ranking at-large municipal office appearing on a ballot. If no such office appeared on a ballot, then "total number of votes cast" shall be determined by using the sum of votes cast for or against the municipal question or proposition receiving the largest total number of votes on a ballot, provided that all voters registered and residing within the municipal limits were eligible to vote on such question or proposition.

Added by Laws 1977, c. 256, § 15-103, eff. July 1, 1978. Amended by Laws 1988, c. 105, § 18, eff. Nov. 1, 1988; Laws 2016, c. 41, § 1, eff. Nov. 1, 2016; Laws 2019, c. 149, § 1, eff. Nov. 1, 2019.

§11-15-104. Publication announcing the filing of petition - Protests.

A. When signed copies of a petition are timely filed with the clerk, the clerk shall make a physical count of the number of signatures appearing on the petitions. He shall then publish, in at least one (1) newspaper of general circulation in the municipality, a notice of the filing and the apparent sufficiency or insufficiency of the petition. The notice shall also state that any qualified elector of the municipality may file a protest to the petition or an objection to the count made by the clerk.

B. A protest to the petition or the count of signatures shall be filed in the district court in the county in which the situs of the

municipality is located within ten (10) days after the publication. Written notice of the protest shall be served upon the clerk and the parties who filed the petition. In the case of the filing of an objection to the count, notice shall also be served upon any party filing a protest. The district court shall fix a day, not less than ten (10) days after the filing of a protest, to hear testimony and arguments for and against the sufficiency of the petition. A protest filed by anyone, if abandoned by the party filing it, may be revived within five (5) days by any other qualified elector. After the hearing, the district court shall decide whether such petition is in form required by law.
Laws 1977, c. 256, § 15-104, eff. July 1, 1978.

§11-15-105. Ballot title.

A. The parties submitting a petition for either initiative or referendum shall also prepare and file a ballot title for the measure. The ballot title may be filed with the clerk prior to circulating the petition, but it must be submitted no later than the time that the signed copies of the petition are filed with the clerk. The ballot title shall contain the gist of the proposition couched in language that may be readily understood by persons not engaged in the practice of law. The ballot title shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition, and a "no" vote is a vote against the proposition. The ballot title may not:

1. Exceed one hundred fifty (150) words;

2. Reflect partiality in its composition or contain any argument for or against the measure; or

3. Contain language whereby a "yes" vote is, in fact, a vote against the proposition and a "no" vote is, in fact, a vote in favor of the proposition.

B. The clerk shall immediately forward a copy of the proposition and ballot title to the municipal attorney. Within three (3) days after the filing of the ballot title, the attorney shall notify the clerk in writing whether or not the proposed ballot title is in legal form and in harmony with the law. If the ballot title is not in proper form, in the opinion of the attorney, he shall prepare and file a ballot title which does conform to the law within the three-day period.
Laws 1977, c. 256, § 15-105, eff. July 1, 1978.

§11-15-106. Appeal on question of ballot title - Procedure.

A qualified elector who is dissatisfied with the wording of a ballot title may appeal, within ten (10) days after the ballot title is filed with the clerk, to the district court in the county in which the situs of the municipality is located. The petition for appeal shall offer a substitute ballot title for the one from which the

appeal is taken. Written notice of the appeal shall be served upon the clerk and upon the parties who filed the ballot title at least five (5) days before such appeal is heard by the court. The municipal attorney shall, and any interested citizen may, defend the ballot title from which the appeal is taken. After the hearing of the appeal, the district court may correct or amend the ballot title, or accept the substitute suggested, or may draft a new one which will conform with the law.
Laws 1977, c. 256, § 15-106, eff. July 1, 1978.

§11-15-107. Presentation of petition to mayor.
When a ballot title has been decided upon, either as approved by the municipal attorney or by the district court, the clerk shall notify the mayor in writing, and attach a copy of the petition and ballot title.
Laws 1977, c. 256, § 15-107, eff. July 1, 1978.

§11-15-108. Consideration of initiative petitions by governing body - Submission to voters.
When an initiative petition demands the enactment of an ordinance or resolution, the mayor shall present the petition to the municipal legislative body at its next meeting. If the petition is not granted more than thirty (30) days before the next general municipal election or biennial or special town meeting if the municipality is subject to the Oklahoma Town Meeting Act, the mayor shall submit the ordinance or act so petitioned to the registered voters of the municipality at the next general municipal election or biennial town meeting, whichever is appropriate.
Amended by Laws 1988, c. 105, § 19, eff. Nov. 1, 1988.

§11-15-109. Time for submission of measures to voters.
Whenever a referendum is demanded against any measure passed by the municipal governing body, or whenever an initiative petition demands an amendment to the municipal charter, the question shall be submitted to the registered voters of the municipality for their approval or rejection at a special election called by the municipal governing body for that purpose or at the next general election, general municipal election or biennial or special town meeting if the municipality is subject to the Oklahoma Town Meeting Act.
Added by Laws 1977, c. 256, § 15-109, eff. July 1, 1978. Amended by Laws 1988, c. 105, § 20, eff. Nov. 1, 1988; Laws 1995, c. 3, § 1, eff. Nov. 1, 1995.

§11-15-110. Conflicting measures proposed by governing body.
Along with each initiative measure the municipal governing body may submit a competing bill or resolution. If conflicting ordinances or charter amendments are submitted to the registered voters, and two

or more of such conflicting measures are approved by the registered voters, then the measure which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such measure may not have received the greatest majority.
Laws 1977, c. 256, § 15-110, eff. July 1, 1978.

§11-16-101. Notice of municipal elections.

The governing body of a municipality shall give notice of a general municipal election or a special election by publishing the resolution calling for the election. The resolution shall: contain the facts described in Section 13-102 of Title 26 of the Oklahoma Statutes.

The resolution shall be published in a newspaper of general circulation in the municipality at least ten (10) days before the beginning of the filing period for a general municipal election, or at least ten (10) days before the date of a special election. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the resolution in at least five (5) public places in the municipality.
Added by Laws 1977, c. 256, § 16-101, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 24, eff. July 1, 2005.

§11-16-102. Provisions not applicable to municipalities governed by charter or subject to Oklahoma Town Meeting Act - Exception - Choice of election procedure - Residency requirements.

A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter; provided, that elections for such municipalities which shall be conducted by the county election board shall be scheduled only on an election date identified by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes. However, such a municipality may, by indicating in its resolution calling an election, choose to follow any provision of state law governing elections conducted by a county election board when the municipality's charter or ordinances are silent on the matter addressed by such provision. In such instance, if the municipal election or any substantial portion thereof is not conducted by a county election board, the duties required of the county election board or its secretary shall be performed by the municipal authority designated by the municipal governing body and nothing herein shall be construed to require the county election board to perform any such duties. The residency requirements of Sections 16-109 and 16-110 of this title shall apply to all municipalities except to the extent that such residency requirements are governed by municipal charter.

B. The provisions of Sections 16-101 through 16-114 of this title shall not apply to any municipality subject to the provisions

of the Oklahoma Town Meeting Act; provided, Section 16-103.1 of this title shall apply to such municipalities.

C. In the event that a municipality governed by charter schedules a regular or special election for a municipal office on the same date as an election involving state or federal offices, the provisions of subsection D of Section 3-101 of Title 26 of the Oklahoma Statutes shall apply.

D. After January 1, 2016, no county election board shall be required to conduct a regular or special election for any elective municipal office in any municipality governed by charter unless the resolution calling the election shall set a candidate filing period of three (3) days to begin not more than twenty (20) days from the date the resolution is required to be submitted to the county election board. In no case shall a resolution calling a regular or special election be submitted to the county election board less than sixty (60) days preceding the election date.

Added by Laws 1977, c. 256, § 16-102, eff. July 1, 1978. Amended by Laws 1987, c. 75, § 1, eff. July 1, 1987; Laws 1988, c. 105, § 21, eff. Nov. 1, 1988; Laws 2004, c. 545, § 25, eff. July 1, 2005; Laws 2011, c. 196, § 19, eff. Nov. 1, 2011; Laws 2015, c. 219, § 1, eff. Nov. 1, 2015.

§11-16-103. General municipal elections - When held.

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

Laws 1977, c. 256, § 16-103, eff. July 1, 1978.

§11-16-103.1. Withholding certain monies from city or town that fails to hold municipal election or biennial town meeting.

No monies shall be distributed pursuant to Section 1104 of Title 47 and Section 504 of Title 68 of the Oklahoma Statutes to any incorporated city or town which has failed to hold a general or special municipal election to elect officers as provided in Section 16-101 et seq. of this title or a biennial town meeting as provided by the Oklahoma Town Meeting Act, on the dates required by law for four (4) or more years, if a general or special municipal election, or for two consecutive biennial town meetings. Such monies shall be remitted to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law. An incorporated city or town shall henceforth send the county treasurer of the county in which it is located a copy of the municipality's notice of a biennial town meeting or resolution calling for its regular municipal elections, whichever is appropriate. The copy of the resolution shall include a notation by the county election board showing that the resolution was received and the date it was received.

Added by Laws 1984, c. 126, § 30, eff. Nov. 1, 1984. Amended by Laws 1987, c. 75, § 2, eff. July 1, 1987; Laws 1988, c. 105, § 22, eff. Nov. 1, 1988; Laws 1988, c. 152, § 3, eff. Nov. 1, 1988; Laws 2018, c. 66, § 1, eff. July 1, 2018.

§11-16-104. Conduct of general municipal elections.

The laws applicable to general elections shall govern general municipal elections except as otherwise provided. Municipal elected officials, including those from wards as well as at large, shall be elected at large by the registered voters of the entire municipality.
Laws 1977, c. 256, § 16-104, eff. July 1, 1978.

§11-16-105. What candidate's name may be placed on general election ballot.

No candidate's name shall be printed upon the official ballot for a general municipal election unless such candidate shall have been nominated by some political party at the primary election or unless his name is presented as an independent candidate as provided in Section 16-110 of this title.
Laws 1977, c. 256, § 16-105, eff. July 1, 1978.

§11-16-105.1. Elections to be nonpartisan - Primary elections in nonpartisan elections abolished.

Municipal elections shall be nonpartisan and all candidates shall file as independent candidates unless, prior to the date for notifying the county election board of the call for the election, the municipality has in effect an ordinance providing for a partisan primary election consistent with Section 16-101 et seq. of Title 11 of the Oklahoma Statutes. No primary elections shall be held in a nonpartisan election. Any election proclamation or notice of election providing for a primary election shall be deemed to be amended by operation of this act to delete the call for a primary election unless a copy of the ordinance authorizing the primary election is attached to the election resolution filed with the county election board. If such a copy is not attached, each candidate shall appear on the ballot as an independent candidate without party or other designation. Provided, any municipality which is governed by a charter may provide otherwise by charter or ordinance.
Added by Laws 1987, c. 75, § 3, eff. July 1, 1987.

§11-16-106. Unopposed candidates in general election.

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

Laws 1977, c. 256, § 16-106, eff. July 1, 1978.

§11-16-107. Primary elections - When held.

A primary election shall be held in cities and towns on the second Tuesday of February in each odd-numbered year, at which time the several political parties shall nominate candidates for offices which are to be elected at the upcoming general municipal election.
Added by Laws 1977, c. 256, § 16-107, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 1; Laws 2004, c. 545, § 26, eff. July 1, 2005.

§11-16-108. Conduct of primary elections.

The general laws relating to primary elections shall govern partisan municipal primaries except as otherwise provided. Party candidates for municipal office, including those from wards as well as at large, shall be nominated at large by the registered voters of the respective parties of the entire municipality.
Added by Laws 1977, c. 256, § 16-108, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 27, eff. July 1, 2005.

§11-16-109. Eligibility and manner of becoming party candidate.

To be eligible to become a candidate for a political party nomination in a municipality's partisan primary election, or an independent candidate in such municipality's general election, a person must for at least six (6) months prior to filing a declaration of candidacy be a registered voter at an address within the municipality or in the ward if an office is from a ward. To become a candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in December and no later than 5:00 p.m. on the next succeeding Wednesday.
Added by Laws 1977, c. 256, § 16-109, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 2; Laws 1987, c. 75, § 4, eff. July 1, 1987; Laws 2004, c. 545, § 28, eff. July 1, 2005.

§11-16-110. Nonpartisan candidates.

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

Added by Laws 1977, c. 256, § 16-110, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 3; Laws 1987, c. 75, § 5, eff. July 1, 1987; Laws 2004, c. 545, § 29, eff. July 1, 2005.

§11-16-111. Unopposed candidates in primary election.

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

Added by Laws 1977, c. 256, § 16-111, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 30, eff. July 1, 2005.

§11-16-112. Special elections - Questions which may be submitted.

When the municipal governing body shall deem it advisable, it may, by resolution or ordinance, authorize the mayor to call a special election on a date established in Section 3-101 of Title 26 of the Oklahoma Statutes for the purpose of submitting to the registered voters of the municipality the question of issuing municipal bonds, of granting any franchise, or for any other purpose authorized by law.

Added by Laws 1977, c. 256, § 16-112, eff. July 1, 1978. Amended by Laws 2015, c. 380, § 4, eff. Jan. 1, 2016.

§11-16-113. Special election ballot - Preparation and arrangement.

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

Laws 1977, c. 256, § 16-113, eff. July 1, 1978.

§11-16-114. Conduct of special elections held for electing officers.

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

1. A filing period of three (3) days which shall begin not more than twenty (20) days from the date the resolution or order is required to be filed with the county election board;

2. The date of the special primary election, not less than forty-five (45) days after the close of the filing period; and

3. The date of the special general election, not less than forty-five (45) days after the date of the primary election. A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the

date of the special primary election. The election shall be conducted under the laws applicable to general municipal elections.

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

1. A filing period of three (3) days which shall begin not more than twenty (20) days from the date the resolution or order is required to be filed with the county election board;

2. The date of the special general election, not less than forty-five (45) days after the close of the filing period. A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the date of the special general election.

C. Special municipal elections may be called only on dates established by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes.

Added by Laws 1977, c. 256, § 16-114, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 4; Laws 1987, c. 75, § 6, eff. July 1, 1987; Laws 2004, c. 545, § 31, eff. July 1, 2005; Laws 2015, c. 219, § 2, eff. Nov. 1, 2015.

§11-16-201. Aldermanic cities with one councilmember per ward - Officers to be elected - Terms.

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

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

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

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

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

Laws 1977, c. 256, § 16-201, eff. July 1, 1978.

§11-16-202. First election held in aldermanic cities with one councilmember per ward.

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

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

2. Two-year terms: Councilmembers from even-numbered wards; and the treasurer.

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

Laws 1977, c. 256, § 16-202, eff. July 1, 1978.

§11-16-203. Aldermanic cities with two councilmembers per ward - Officers to be elected - Terms.

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

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

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

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

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

Laws 1977, c. 256, § 16-203, eff. July 1, 1978.

§11-16-204. First election held in aldermanic cities with two councilmembers per ward – Terms of office.

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

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

2. Two-year terms: One councilmember from each ward of the city; and the treasurer.

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

B. The governing body of a municipality with an aldermanic form of government shall provide that the office of the clerk, at the next election after the effective date of this act, be elected to one six-year term followed by four-year terms thereafter, if the clerk and the mayor are currently on the same election cycle.

Added by Laws 1977, c. 256, § 16-204, eff. July 1, 1978. Amended by Laws 2005, c. 97, § 1, eff. Nov. 1, 2005.

§11-16-205. Towns - Officers to be elected - Terms.

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

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

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

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

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

Laws 1977, c. 256, § 16-205, eff. July 1, 1978.

§11-16-206. First election held in town.

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

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

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

Laws 1977, c. 256, § 16-206, eff. July 1, 1978.

§11-16-207. Aldermanic cities and towns - Appointment of certain officials after submission to vote.

A. The city council of any city may provide by ordinance for the submission to a vote of the registered voters of the city the question of providing for the appointment by the mayor, with the

approval of the council, of the city marshal, the street commissioner, the city clerk, the city treasurer, or the city clerk-treasurer.

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

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

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

( ) Yes.
( ) No.

If a majority of the votes cast are in favor of appointment to the office, the appointive position shall take effect at the end of the current term of the office. In cities, the appointive officer shall be appointed and may be removed by the mayor, with the approval of the council. In towns, the appointment and removal shall be by a majority vote of all the members of the board of trustees.
Laws 1977, c. 256, § 16-207, eff. July 1, 1978.

§11-16-208. Council-manager cities - Officers to be elected - Terms.

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

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

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

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

Laws 1977, c. 256, § 16-208, eff. July 1, 1978.

§11-16-209. First election held in council-manager city.

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

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

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.
Laws 1977, c. 256, § 16-209, eff. July 1, 1978.

§11-16-210. Strong-mayor-council cities - Officers to be elected - Terms.

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

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

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

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

Laws 1977, c. 256, § 16-210, eff. July 1, 1978.

§11-16-211. First election held in strong-mayor-council city.

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

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

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.
Laws 1977, c. 256, § 16-211, eff. July 1, 1978.

§11-16-212. Council-manager and strong-mayor-council cities - Form of general municipal election ballot.

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

For Councilmember from Ward One
(Vote for One)
_____ Name of independent candidate or party nominee
_____ Name of independent candidate or party nominee
For Councilmember from Ward Two
(Vote for One)
_____ Name of independent candidate or party nominee
_____ Name of independent candidate or party nominee

Laws 1977, c. 256, § 16-212, eff. July 1, 1978.

§11-16-213. Transitional provisions for municipalities not in conformance with general election or town meeting procedure.

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

B. If the term of an elected officer as set forth in the notice of the last election for the office will expire in an odd-numbered year, but the term of office does not coincide with the offices named in Section 16-201 et seq. of this title, a regular municipal election or town meeting shall be held in order to elect a successor. The term of the successor shall be either two (2) or four (4) years as necessary in order to comply with the provisions of Section 16-101 et seq. of this title. Thereafter, the term of said office shall be four (4) years.

Amended by Laws 1984, c. 126, § 31, eff. Nov. 1, 1984; Laws 1988, c. 105, § 23, eff. Nov. 1, 1988.

§11-16-301. Short title.

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

Added by Laws 1988, c. 105, § 1, eff. Nov. 1, 1988.

§11-16-302. Municipalities required to hold town meetings - Election - Ordinance providing alternative procedure - Repeal of ordinance.

A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, all municipalities with fewer than two thousand (2,000) residents, according to the latest Federal Decennial Census, that are not governed by charter, shall elect officers and consider questions raised by initiative or referendum, pursuant to Section 15-101 et seq. of this title, at biennial town meetings or special town meetings of the voters of each municipality as provided in this act. Provided, that a municipality of fewer than two thousand (2,000) residents may at any time adopt an ordinance requiring that its officers shall be elected and initiative and referendum questions shall be decided only through elections conducted by the county election board pursuant to Section 16-101 et seq. of this title. Any municipality that passes an ordinance pursuant to this section shall

upon adoption of the ordinance provide a copy of the ordinance to the county election board of the county in which the municipality is located.

B. If the ordinance is repealed, elections of the municipality shall be at a town meeting. The municipality shall provide a copy of the repealer to the county election board of the county in which the municipality is located. If a municipality with fewer than two thousand (2,000) residents fails to hold its regular municipal elections as required by law, the municipality shall be subject to the provisions of the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title; provided, further, that such municipality may adopt a resolution requiring that its elections be conducted by the county election board as provided in this section.

Added by Laws 1988, c. 105, § 2, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 1, emerg. eff. April 17, 1989; Laws 2013, c. 25, § 1, eff. Nov. 1, 2013.

§11-16-303. Time for town meeting - Purpose - Special town meetings.

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

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

Added by Laws 1988, c. 105, § 4, eff. Nov. 1, 1988; Amended by Laws 1990, c. 22, § 1, emerg. eff. March 29, 1990.

§11-16-304. Notice - Publication - Posting - Contents.

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

In addition to the requirements of the Oklahoma Open Meeting Act, notice of the biennial town meeting and any special town meeting shall be given by publishing notice of the meeting stating the date, time, place and agenda in a newspaper of general circulation in the municipality at least ten (10) days before the date of the meeting. If there is no newspaper of general circulation in the municipality,

the notice shall be given by posting a copy of the notice and agenda in at least five (5) public places in the municipality. The notice shall list the offices to be filled, including the number of officers to be elected for four-year terms and the number of officers to be elected to fill unexpired terms, and the questions to be voted on, if any.
Added by Laws 1988, c. 105, § 4, eff. Nov. 1, 1988.

§11-16-305. Presiding officer - Minutes - Officers - Voting - Registration requirements - False affidavits.

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

B. If the governing body fails or refuses to hold a biennial or special town meeting for the purpose of electing officers, the board of county commissioners of the county in which the municipality is located shall call a town meeting for the purpose of electing officers. The sheriff, or his deputy, of the county in which the municipality is located shall attend any town meeting called by the board of county commissioners, and if the municipal officers fail to conduct the meeting, shall moderate the meeting.
Added by Laws 1988, c. 105, § 5, eff. Nov. 1, 1988.

§11-16-306. Presiding officer - Rules of order, conduct and decorum - Minutes - Ballots - Nomination and election of officials - False affidavits.

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

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

C. Officials elected at town meetings shall be nominated and elected at large by the registered voters present from nominations taken from the floor. Prior to accepting any nominations the presiding officer shall state the number of governing body offices to be elected for four-year terms and the number of governing body offices to be elected to fill unexpired terms, if any. There shall be separate nominations and balloting for each designated term. The nominee who receives a plurality of the votes cast for the office of the designated term shall be elected for that designated term. If more than one office is to be filled for a designated term, the voters shall vote for the designated number of offices to be filled and, the nominees receiving the largest pluralities shall be elected to those offices. All votes shall be taken by secret ballot; provided that if there is only one candidate for an office, he or she may be elected by acclamation upon proper motion. In case of a tie vote, the municipal clerk shall immediately select the electee or electees by lot as follows: The clerk shall write or print the names of the tied nominees on similar pieces of paper and place the papers in a container in view of the persons attending the town meeting. The clerk shall designate a person, who shall not be one of the nominees, to draw one name for each office to be filled and the nominee or nominees whose names are so drawn shall be deemed elected. All other papers in the container shall then be exposed for examination. Only a registered voter who has been a registered voter at an address within the municipality for at least six (6) months prior to the date of the town meeting at which the elections are held shall be qualified for nomination for office. To be eligible for election, any person who is nominated for office must swear under oath that he or she has been a registered voter at an address within the municipality for the last six (6) months. Only qualified registered voters who are present at the town meeting at which the elections are held shall be eligible for nomination for municipal office, provided that a qualified registered voter who is not present may be nominated if he or she has agreed in writing to accept the office if elected and has sworn an affidavit that he or she has been a registered voter at an address within the municipality for the last six (6) months. Any person who falsely swears or signs a false affidavit that the person is qualified for municipal office shall be punished by a fine of not more than One Thousand Dollars ($1,000.00). Added by Laws 1988, c. 105, § 6, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 2, emerg. eff. April 17, 1989; Laws 1997, c. 133, § 128, eff. July 1, 1999; Laws 2016, c. 41, § 2, eff. Nov. 1, 2016. NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 128 from July 1, 1998, to July 1, 1999.

§11-16-307. Voting eligibility - Town meeting pollbook - Illegal voting - Penalty.

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

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

Added by Laws 1988, c. 105, § 7, eff. Nov. 1, 1988. Amended by Laws 2002, c. 447, § 1, emerg. eff. June 5, 2002; Laws 2016, c. 41, § 3, eff. Nov. 1, 2016.

§11-16-308. Election of municipal officers.

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

Added by Laws 1988, c. 105, § 8, eff. Nov. 1, 1988.

§11-16-309. Filing of list of municipal officers elected - Notification of changes in list.

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

Added by Laws 1988, c. 105, § 9, eff. Nov. 1, 1988.

§11-16-310. Contest of election by nominee.

Any person nominated for municipal office may, at any time before 5:00 p.m. of the third business day following the town meeting in which he or she was nominated, contest the correctness of the announced results of said election by filing a written petition with the district court of any county in which the municipality is located.
Added by Laws 1988, c. 105, § 10, eff. Nov. 1, 1988.

§11-16-311. Petition alleging fraud - Bond - Hearing - Answer - Judgment - Ineligibility for office - Liability of contestant - Damages.

When a petition alleging fraud is filed, said petition must be accompanied by a cash bond of Five Thousand Dollars ($5,000.00), running in favor of the contestee and conditioned upon payment of any and all liabilities or judgments arising from the contest so filed. In said petition, contestant must allege the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud. If such petition is filed in the manner herein provided, the district judge of the county in which the alleged fraud occurred, or such other judge as may be assigned by the Supreme Court, shall hear and determine said issue without delay or continuance of more than one (1) day. On the day of such hearing, the contestee may file answer to such petition or may file cross petition, setting forth in detail, as required of a petitioner herein, such claim of fraud. An original petition or cross petition must be under oath and under penalty of perjury. The judge shall try and determine the issues formed by such pleadings and render such judgment as he or she may deem just and proper, according to the evidence submitted. The decision of said district judge shall be final as to any changes in the total votes, and a copy of such judgment and decision shall be furnished the officer who presided at the town meeting. In any case where fraud is proved on the part of a nominee, he or she shall be declared ineligible for the office for which he or she was nominated. In all cases where a petition is filed which alleges fraud, but after hearing said allegations are not reasonably sustained by competent evidence, the contestant shall be civilly liable in damages to the contestee for all damages sustained, including a reasonable attorney fee and all reasonable and proper costs of conducting such contest; and in the event it be alleged and found that such petition was frivolous in nature, the contestee may also be allowed punitive damages to be paid by said petitioner.
Added by Laws 1988, c. 105, § 11, eff. Nov. 1, 1988.

§11-16-312. Petition alleging irregularities other than fraud - Sufficiency of allegations - Hearing.

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

1. Prove that the contestant is lawfully entitled to be announced the winner; or

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

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

Added by Laws 1988, c. 105, § 12, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 3, emerg. eff. April 17, 1989

§11-16-313. Impossibility of determining winner - Special town meeting to fill contested office.

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

Added by Laws 1988, c. 105, § 13, eff. Nov. 1, 1988.

§11-16-314. Omission of or noncompliance with notice requirements - Correction - Rectification of other errors and omissions - Validation of business of original action.

When any of the requirements of this act as to notice of a biennial or special town meeting have been omitted or not complied with, the omission or noncompliance, if the meeting and the business transacted at it is otherwise legal and within the scope of the municipal powers, may be corrected and legalized by a majority vote of the registered voters present at a regular town meeting or special town meeting of the municipality called for that purpose, with notice as required by Section 4 of this act. The question to be voted upon shall substantially be, "Shall the action taken at the meeting of this town held on (state date) in spite of the fact that (state error or omission), and any act or action of the municipal officers or agents pursuant thereto be readopted, ratified and confirmed?". Errors or omissions in the conduct of an original meeting which are not the result of an unlawful notice or noncompliance within the

scope of the notice, may be rectified by a resolution of the governing body of the municipality passed by a majority of the members of the governing body at a regular meeting or a special meeting called for that purpose, stating that the defect was the result of oversight, inadvertence or mistake. When an error or omission of this nature has been thus corrected by resolution, all business within the terms of the action of the qualified voters shall be as valid as if the requirements had been initially complied with, on condition, however, that the original action thereby corrected by the governing body was in compliance with the legal exercise of its governing powers.
Added by Laws 1988, c. 105, § 14, eff. Nov. 1, 1988.

§11-16-315. Elections to be conducted by county election board - Option to be conducted at town meeting.

Whenever in Title 11 of the Oklahoma Statutes provisions are made for election of officers or consideration of questions at elections conducted by the county election board pursuant to Section 16-101 et seq. of Title 11 of the Oklahoma Statutes, such elections may be held or questions considered at biennial or special town meetings, if the municipality is subject to the provisions of this act.
Added by Laws 1988, c. 105, § 15, eff. Nov. 1, 1988.

§11-17-101. Borrowing or appropriating monies - Investments - Deposit of monies.

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

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

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

into his custody. Unless otherwise provided for by law, interest earnings shall be prorated according to fund source.
Amended by Laws 1984, c. 126, § 32, eff. Nov. 1, 1984.

§11-17-102. Payment of invoice or account - Petty cash accounts.

A. Any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in absence of such ordinance by other applicable law. The municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices. Except as otherwise provided for in this subsection, monies may be drawn from the municipal treasury only upon a proper warrant as provided by law. In lieu of issuing such warrant, a municipality may process payment by check, wire transfer, direct payroll deposit, or other instrument or method of disbursement through the Federal Reserve System.

B. The warrant, check, or other instrument shall be prepared and issued in accordance with procedures and requirements provided by municipal ordinance or in absence of such ordinance, by other applicable law. The municipal warrant or municipal check shall be signed by the officer designated in the ordinance or in the absence of such ordinance, by the municipal treasurer. The provisions of state law on uniform facsimile signatures of public officials, Sections 601 through 606 of Title 62 of the Oklahoma Statutes, shall be applicable to instruments authorized by this section.

C. Unless alternate procedures have been enacted by municipal ordinance and a majority or all of governing body offices in a municipality become vacant, thereby preventing approval of amounts lawfully owing on invoices, the interim mayor or the remaining governing body members, as the case may be, may authorize emergency payments of amounts owing on invoices for a period not to exceed ninety (90) days after the date that a majority of the offices become vacant or, if an election cannot be held within the ninety (90) days in accordance with state law, until successors to at least a majority of the governing body offices have been elected and qualified. The interim mayor or the remaining governing body members may also authorize payment of payroll, utility bills, or other usual and regular obligations of the municipality. Any such authorization and payment shall not exceed the unencumbered and unexpended balance of the appropriation made for that purpose, nor may the total amount of such emergency authorizations and payments exceed fifteen percent (15%) of the total appropriations approved for the town government for the fiscal year. Any warrant, check or other instrument issued pursuant to this section shall state that it is being issued under emergency circumstances and by special authority of this section.

D. A municipality shall have the authority to establish petty cash accounts in amounts established by the governing body for use in

making payments for costs incurred in operating the municipality. The petty cash accounts shall be reimbursed by utilizing properly itemized invoices or petty cash voucher slips and processing the reimbursement in accordance with the provisions of subsection A of this section.
Added by Laws 1977, c. 256, §17-102, eff. July 1, 1978. Amended by Laws 1980, c. 226, § 1, emerg. eff. May 27, 1980; Laws 1985, c. 82, § 1, eff. Nov. 1, 1985; Laws 1988, c. 105, § 24, eff. Nov. 1, 1988; Laws 1991, c. 124, § 1, eff. July 1, 1991; Laws 1996, c. 52, § 1, emerg. eff. April 8, 1996.

§11-17-103. Actions against municipality.

No costs may be recovered against a municipality, in any action brought against it, for any unliquidated claim which has not been presented to the governing body for auditing, nor for claims allowed in part unless the recovery shall be for a greater sum than the amount allowed with the interest due. No action may be maintained against a municipality in exercising or failing to exercise any corporate power or authority where such action would not lie against a private individual under like circumstances.
Laws 1977, c. 256, § 17-103, eff. July 1, 1978.

§11-17-104. Liability for voting unlawful claims.

Any governing body member who intentionally votes to appropriate money or to allow any bill or claim which is not authorized by law shall be personally liable to the municipality for the amount of such money appropriated, or bills or claims allowed, with costs of suit, in an action before any court of competent jurisdiction.
Laws 1977, c. 256, § 17-104, eff. July 1, 1978.

§11-17-105. Annual financial statement audit or agreed-upon-procedures engagement.

A. The governing body of each municipality with an income of Twenty-five Thousand Dollars ($25,000.00) or more to its general fund during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial statement audit to be conducted in accordance with auditing standards generally accepted in the United States of America and "Government Auditing Standards" as issued by the Comptroller General of the United States. Such audit shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 3022 and 3023 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

B. The governing body of each municipality with an income of Twenty-five Thousand Dollars ($25,000.00) or more to its general fund

during a fiscal year and with a population of less than two thousand five hundred (2,500) as of the most recent Federal Decennial Census, and for whom an annual financial statement audit is not required by another law, regulation or contract, shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial statement audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States, or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants. The specific procedures to be performed are as follows for the fiscal year:

1. Prepare a schedule of changes in fund balances for each fund and determine compliance with the statutory prohibition of creating fund balance deficits;

2. Prepare a budget and actual financial schedule for the General Fund and any other significant funds listing separately each federal fund and determine compliance with the legal level of appropriations by comparing expenditures and encumbrances to authorized appropriations;

3. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;

4. Compare uninsured deposits to fair value of pledged collateral;

5. Compare use of material-restricted revenues and resources to their restrictions;

6. Determine compliance with requirements for separate funds; and

7. Determine compliance with reserve account and debt service coverage requirements of bond indentures.

Such audit or agreed-upon-procedures engagement shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 3022 and 3023 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

C. The municipal income requirements in subsections A and B of this section shall not include any grant monies provided to a municipality from any federal, state, or other governmental entity. Added by Laws 1977, c. 256, § 17-105, eff. July 1, 1978. Amended by Laws 1979, c. 30, § 1, emerg. eff. April 6, 1979; Laws 1984, c. 125, § 1, emerg. eff. April 10, 1984; Laws 1987, c. 110, § 1, eff. Nov. 1, 1987; Laws 1991, c. 124, § 2, eff. July 1, 1991; Laws 2005, c. 459, § 1, eff. July 1, 2005; Laws 2016, c. 211, § 1; Laws 2017, c. 82, § 1.

§11-17-105.1. Filing of audit or agreed-upon-procedures report - Form.

An auditor shall file with the State Auditor and Inspector, at the same time a certified copy of an audit or agreed-upon-procedures report is filed as required in Section 17-105 of this title, two copies of a prescribed form setting forth for the fiscal year audited the funds available to the municipality and the use of those funds. The form shall also include information relating to the duly constituted authorities of the municipality and shall be on a form approved by the State Auditor and Inspector. Copies of said audit and the form shall be made available for public inspection by the municipality and the State Auditor and Inspector. The State Auditor and Inspector may contract for the preparation and reporting of the information submitted on the form.

Added by Laws 1984, c. 125, § 2, emerg. eff. April 10, 1984. Amended by Laws 2005, c. 459, § 2, eff. July 1, 2005; Laws 2018, c. 45, § 1, eff. Nov. 1, 2018.

§11-17-106. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-17-106.1. Independent audit reports relating to federal awards compliance - Form required.

Independent auditor's reports relating to federal awards compliance will be in a form consistent with the auditors' reports in the most recent audit guide for state and local governments prepared by The American Institute of Certified Public Accountants. State agencies or other pass-through grantors of federal awards will not place auditing requirements on a municipality, in addition to the required reports and schedules of federal awards expended, without approval of the State Auditor and Inspector.

Added by Laws 1991, c. 124, § 3, eff. July 1, 1991. Amended by Laws 2005, c. 459, § 3, eff. July 1, 2005.

§11-17-107. Failure to file audit or agreed-upon-procedures report.

If a municipality does not file a copy of its audit or agreed-upon-procedures report as provided in Section 17-105 of this title, the State Auditor and Inspector shall notify the Oklahoma Tax Commission which shall withhold from the municipality its monthly allocations of gasoline taxes until the audit report is filed. If a report is not filed within two (2) years after the close of the fiscal year, the funds being withheld shall be remitted by the Oklahoma Tax Commission to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law.

Added by Laws 1977, c. 256, § 17-107, eff. July 1, 1978. Amended by Laws 1979, c. 30, § 2, emerg. eff. April 6, 1979; Laws 1993, c. 146, § 2; Laws 2005, c. 459, § 4, eff. July 1, 2005.

§11-17-108. Trusts exempt.

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

Laws 1977, c. 256, § 17-108, eff. July 1, 1978.

§11-17-109. Capital improvement fund - Authority to create.

The municipal governing body may create a capital improvement fund and place in the fund any money available to the municipality. Money in the fund may be accumulated from year to year. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the capital improvement fund may be expended for any capital improvement.

Laws 1977, c. 256, § 17-109, eff. July 1, 1978; Laws 1991, c. 124, § 4, eff. July 1, 1991.

§11-17-110. Capital improvements - Definitions.

For the purpose of creating a capital improvement fund and expending money therefrom, capital improvement shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to roads and streets, drainage improvements, water and sewerage improvements, machinery, equipment, furniture and fixtures, all real property, all construction or reconstruction of buildings, appurtenances and improvements to real property, the cost and expenses related thereto of rights-of-way or other real property, engineering, architectural or legal fees, and payment for improvements for which subsequent reimbursement is made to the capital improvement fund.

Laws 1977, c. 256, § 17-110, eff. July 1, 1978.

§11-17-111. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-17-112. Manufacturing establishments and public utilities - Exemption from municipal taxation.

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

Laws 1977, c. 256, § 17-112, eff. July 1, 1978.

§11-17-113. Publication of city financial statements.

Any municipality subject to the annual audit requirements of Section 17-105 of this title shall cause to be published, within

thirty (30) days of receipt of its annual audit report, a notice of availability of the annual audited financial statements for public inspection. All publications mentioned in this section shall be made in a newspaper of general circulation in the municipality. The provisions of this section shall not apply to any city governed by charter where the charter provides for the manner or procedure for publication of such financial information.
Laws 1977, c. 256, § 17-113, eff. July 1, 1978; Laws 1991, c. 124, § 5, eff. July 1, 1991.

§11-17-114. Vendor invoices and contract estimates - Payment procedures - Uniform jackets.

To facilitate the payment of vendor invoices and contract estimates the municipal finance officer may design a uniform jacket to be used by all departments and divisions of the municipality whereon shall be provided summarized information relative to the enclosed invoices or contract estimates, together with a space for the approval of the head of the department or division approving said vendor invoices or contract estimates for payment. Vendor invoices and contract estimates may be accepted by the municipality in lieu of the claim form previously required in the same manner as commercial invoices are paid. If utilized, vendor invoices and contract estimates shall be filed with the department or division receiving the merchandise or services in the same manner as invoices are filed with commercial firms. Upon receipt of invoices or contract estimates the head of the department or division or his authorized agent, may approve said documents for payment by executing a certificate of delivery or acceptance of the goods or services. Whereupon, the authorized official of said agency may approve said invoices or contract estimates for payment by enclosing the invoice or contract estimate in a jacket provided for such purpose and affixing his or her approval in the space provided on the jacket.
Added by Laws 1990, c. 177, § 1, eff. Sept. 1, 1990.

§11-17-115. Reverse auction bidding – Procedure – Public disclosure - Remedies.

A. A municipality or any public trust of which the municipality is beneficiary or any nonappropriated governmental agency or instrumentality of the state is authorized to use a reverse auction bidding procedure to obtain bids for the purchase of goods or services of any type of kind. The reverse auction shall be a real-time bidding process taking place at a previously scheduled time and Internet location and for a previously established duration, in which multiple suppliers, anonymous to each other, submit bids to provide the goods or services. The reverse auction procedure may be used as an alternative to any state law applicable to the purchase of the goods or services.

B. The procedure shall provide:

1. A bid opening and bid closure. At the opening date and time, the municipality or public trust shall begin accepting reverse auction electronic bids. Reverse auction bids shall be accepted until the bid closure, except as provided by paragraph 6 of this subsection, unless the municipality or public trust determines it is in the best interest of the municipality or public trust to extend the closing time and notifies the reverse auction bidders of the extended closing time by public announcement at the Internet location at least fifteen (15) minutes prior to the original closing time;

2. The posting of all reverse auction bids electronically and updating of bids on a real-time basis by the municipality or public trust;

3. The authorization for the municipality or public trust to require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation or applicable acts;

4. The authorization for the municipality or public trust to also require potential bidders to prequalify as bidders and to restrict solicitations to prequalified online and reverse auction bidders;

5. The retention of the authority of the municipality or public trust to determine the criteria that will be used as the basis for making awards; and

6. The authorization for the municipality or public trust to determine it is in the best interest of the municipality or public trust to allow it to accept an electronic bid after the specified official closing date and time, in the event the municipality or public trust determines that a significant error or event occurred that affected the electronic receipt of any reverse auction bid by the municipality or public trust.

C. All bids submitted electronically through the reverse auction bidding process pursuant to this section are subject to the same public disclosure laws that govern bids received pursuant to any other law of this state governing procurement procedures for a municipality or public trust.

D. All remedies available to the municipality or public trust and suppliers through a bid process pursuant to any other law of this state are also available to the municipality or public trust reverse auction bidders in a reverse auction bidding process.

Added by Laws 2004, c. 514, § 1, eff. Nov. 1, 2004. Amended by Laws 2005, c. 459, § 5, eff. July 1, 2005.

§11-17-115.1. Use of reverse auction bidding to obtain acquisitions or award contracts.

The procedures set out in Section 17-115 of Title 11 of the Oklahoma Statutes may be used to obtain acquisitions or award contracts for all needed operations or purchase orders.
Added by Laws 2006, c. 301, § 4, eff. Nov. 1, 2006.

§11-17-201. Short title.
This act may be cited as the "Municipal Budget Act".
Laws 1979, c. 111, § 1. 0

§11-17-202. Purpose of act.
The purpose of this act is to provide an alternate budget procedure for municipal governments which will:
1. Establish standard and sound fiscal procedures for the adoption and administration of budgets;
2. Make available to the public and investors sufficient information as to the financial conditions, requirements and expectations of the municipal government; and
3. Assist municipal governments to improve and implement generally accepted standards of finance management.
Laws 1979, c. 111, § 2.

§11-17-203. Application of act.
This act shall apply to any incorporated city or town which, by resolution of the governing body, opts to come under and comply with all its provisions and requirements. Once a municipality has selected the Municipal Budget Act to govern its budget procedures, the provisions of this act shall take precedence over any other state laws applicable to municipal budgets, except as may be provided otherwise in this act, and supersede any conflicting laws. Any action of a municipal governing body to implement, rescind or repeal the application of the Municipal Budget Act shall be effective as of the beginning or end of a budget year pursuant to this act.
Laws 1979, c. 111, § 3.

§11-17-203.1. Budget format.
A municipality that opts to prepare its budget pursuant to the Municipal Budget Act may select a budget format based on funds and departments or, in the alternative, it may select a format based on purpose. A purpose-based budget shall be subject to all other requirements of the Municipal Budget Act, except those requirements specifically related to budgeting by fund or as provided in Sections 4 and 5 of this act.
Added by Laws 2006, c. 314, § 1, eff. July 1, 2006.

§11-17-204. Definitions.
As used in this act, except as provided in Section 4 of this act:

1. "Account" means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund or department;

2. "Appropriated fund balance" means any fund balance appropriated for a fund for the budget year;

3. "Appropriation" means an authorization to expend or encumber revenues and fund balance of a fund;

4. "Budget" means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;

5. "Budget summary" means a tabular listing of revenues by source and expenditures by fund and by department within each fund for the budget year;

6. "Budget year" means the fiscal year for which a budget is prepared or being prepared;

7. "Chief executive officer" means the mayor of an aldermanic city or a strong-mayor-council city, the mayor of a town, or the city manager or chief administrative officer as it may be defined by applicable law, charter or ordinance;

8. "Current year" means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;

9. "Deficit" means the excess of a fund's current liabilities and encumbrances over its current financial assets as reflected by its books of account;

10. "Department" means a functional unit within a fund which carries on a specific activity, such as a fire department or a police department within a general fund;

11. "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared;

12. "Fiscal year" means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides or as provided by law;

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

14. "Fund balance" means the excess of a fund's current financial assets over its current liabilities and encumbrances, as reflected by its books of account;

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

16. "Immediate prior fiscal year" means the year preceding the current year;

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

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

19. "Municipality" means any incorporated city or town.

Added by Laws 1979, c. 111, § 4. Amended by Laws 1980, c. 226, § 2, emerg. eff. May 27, 1980; Laws 1995, c. 166, § 1, emerg. eff. May 4, 1995; Laws 2002, c. 98, § 1, eff. Nov. 1, 2002; Laws 2006, c. 314, § 2, eff. July 1, 2006.

§11-17-205. Annual budget - Preparation and submission - Assistance of officers, employees and departments.

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

Laws 1979, c. 111, § 5.

§11-17-206. Requirements and contents of budget.

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

B. Unless the budget is prepared in accordance with Sections 4 and 5 of this act, the budget shall be prepared by fund and department and shall contain the following contents:

1. The budget shall contain a budget summary;

2. It shall also be accompanied by a budget message which shall explain the budget and describe its important features;

3. The budget format shall be as provided by the governing body in consultation with the chief executive officer; and

4. It shall contain at least the following in tabular form for each fund, itemized by department and account within each fund:

   a. actual revenues and expenditures for the immediate prior fiscal year,

   b. revenues and expenditures for the current fiscal year as shown by the budget for the current year as adopted or amended, and

   c. estimates of revenues and expenditures for the budget year.

C. The estimate of revenues for any budget year shall include probable income by source which the municipality is legally empowered

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

D. Encumbrances for funds whose sole purpose is to account for grants and capital projects and/or any unexpended appropriation balances may be considered nonfiscal and excluded from the budget by the governing body, but shall be reappropriated to the same funds, accounts and for the same purposes for the successive fiscal year, unless the grant, project or purpose is designated or declared closed or completed by the governing body.

Added by Laws 1979, c. 111, § 6. Amended by Laws 2002, c. 98, § 2, eff. Nov. 1, 2002; Laws 2002, c. 440, § 1, eff. Nov. 1, 2002; Laws 2006, c. 314, § 3, eff. July 1, 2006.

§11-17-207. Monies received and expended must be accounted for by fund or account.

Any monies received or expended by a municipality must be accounted for by fund and account. Each municipality shall adopt an appropriation for the general fund and for all other funds established by the governing body pursuant to the provisions of Section 17-212 of this title. The municipal governing body shall determine the needs of the municipality for sinking fund purposes, pursuant to the provisions of Section 431 of Title 62 of the Oklahoma Statutes, Section 3017 of Title 68 of the Oklahoma Statutes, and Section 28 of Article 10 of the Oklahoma Constitution, and include these requirements in the debt service fund budget for the budget year.

Added by Laws 1979, c. 111, § 7. Amended by Laws 1984, c. 146, § 1, operative July 1, 1984; Laws 1991, c. 124, § 6, eff. July 1, 1991; Laws 2002, c. 98, § 3, eff. Nov. 1, 2002.

§11-17-208. Public hearing on proposed budget - Notice - Copies of proposed budget.

The municipal governing body shall hold a public hearing on the proposed budget no later than fifteen (15) days prior to the beginning of the budget year. Notice of the date, time and place of the hearing, together with the proposed budget summary, shall be

published on the municipality's website, if available, and in a newspaper of general circulation in the municipality not less than five (5) days before the date of the hearing. The municipal clerk shall make available a sufficient number of copies of the proposed budget as the governing body shall determine and have them available for review or for distribution or sale at the office of the municipal clerk. At the public hearing on the budget any person may present to the governing body comments, recommendations or information on any part of the proposed budget.
Added by Laws 1979, c. 111, § 8. Amended by Laws 2018, c. 292, § 1, eff. Nov. 1, 2018.

§11-17-209. Adoption of budget - Filing - Effective period - Use of appropriated funds - Levying tax.

A. After the hearing and at least seven (7) days prior to the beginning of the budget year, the governing body shall adopt the budget by resolution, or as any charter may require, at the level of classification as defined in Section 17-213 of this title. The governing body may add or increase items or delete or decrease items in the budget. In all cases the proposed expenditures shall not exceed the estimated revenues and appropriated fund balance for any fund.

B. The adopted budget shall be transmitted to the State Auditor and Inspector within thirty (30) days after the beginning of the fiscal year of the municipality and one copy shall be kept on file in the office of the municipal clerk. A copy of the municipality's sinking fund requirements shall be filed with the excise board of the county or counties in which the municipality is located.

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

D. At the time required by law, the county excise board shall levy the taxes necessary for the municipality's sinking fund for the budget year pursuant to Section 431 of Title 62 of the Oklahoma Statutes.
Added by Laws 1979, c. 111, § 9. Amended by Laws 1991, c. 124, § 7, eff. July 1, 1991; Laws 2002, c. 98, § 4, eff. Nov. 1, 2002.

§11-17-210. Protests - Failure to protest - Examination of filed budget.

Within fifteen (15) days after the filing of any municipal budget with the State Auditor and Inspector, any taxpayer may file protests against any levy of ad valorem taxes for creating sinking funds in the manner provided by this section and Sections 24104 through 24111 of Title 68 of the Oklahoma Statutes. The fifteen-day protest period

begins upon the date the budget is received in the Office of the State Auditor and Inspector. After receipt of a taxpayer protest, the State Auditor and Inspector shall transmit by certified mail one copy of each protest to the municipal clerk, and one copy of each protest to the county treasurer and the excise board of each county in which the municipality is located. The taxpayer shall specify the grounds upon which the protest is based. Any protest filed by any taxpayer shall inure to the benefit of all taxpayers. Provided, the provisions of this section shall not delay any budget expenditures of a municipality if the amount of revenue from the ad valorem tax levy which is deposited in the municipal general fund is less than five percent (5%) of the total revenue accruing to the municipal general fund during the prior fiscal year. If no protest is filed by any taxpayer within the fifteen-day period, the budget and any appropriations thereof shall be deemed legal and final until amended by the governing body or the county excise board as authorized by law. Taxpayers shall have the right at all reasonable times to examine the budget on file with the municipal clerk or the State Auditor and Inspector for the purpose of filing protests in accordance with this section and Sections 24104 through 24111 of Title 68.
Laws 1979, c. 111, § 10, eff. Oct. 1, 1979; Laws 1980, c. 226, § 3, emerg. eff. May 27, 1980; Laws 1991, c. 124, § 8, eff. July 1, 1991.

§11-17-211. Expenditure of funds - Balances to be carried forward - Unlawful acts and liability therefor.

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

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

1. To create or authorize creation of a deficit in any fund; or

2. To authorize, make or incur expenditures in excess of ninety percent (90%) of the appropriation for any fund of the budget as adopted or amended until revenues received, including the prior fiscal year's fund balance carried forward, totals an amount equal to at least ninety percent (90%) of the appropriation for the fund. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the municipality. Any officer or employee who violates this act shall forfeit his office or position and shall be

subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void.
Added by Laws 1979, c. 111, § 11. Amended by Laws 1991, c. 124, § 9, eff. July 1, 1991; Laws 1992, c. 371, § 2, eff. July 1, 1992; Laws 2002, c. 98, § 5, eff. Nov. 1, 2002.

§11-17-212. Funds - Establishment - Kinds.

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

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

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

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

4. Capital project funds, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities other than those accounted for in enterprise funds and nonexpendable trust funds;

5. Enterprise funds, to account for each utility or enterprise or other service, other than those operated as a department of the general fund, where the costs are financed primarily through user charges or where there is a periodic need to determine revenues earned, expenses incurred or net income for a service or program;

6. Trust and agency funds, to account for assets held by the municipality as trustee or agent for individuals, private organizations or other governmental units or purposes, such as a retirement fund or a cemetery perpetual care fund;

7. Internal service funds, to account for the financing of goods or services provided by one department or agency of the municipality to another department or agency, or to another government, on a cost reimbursement basis;

8. A ledger or group of accounts in which to record the details relating to the general fixed assets of the municipality;

9. A ledger or group of accounts in which to record the details relating to the general bonds or other long-term debt of the municipality; or

10. Such other funds or ledgers as may be established by the governing body.

Laws 1979, c. 111, § 12; Laws 1991, c. 124, § 10, eff. July 1, 1991.

§11-17-213. Funds - Classification of revenues and expenditures.

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

1. Personal services, which may include expenses for salaries, wages, per diem or other compensation, fees, allowances or reimbursement for travel expenses, and related employee benefits, paid to any officer or employee for services rendered or for employment. Employee benefits may include employer contributions to a retirement system, insurance, sick leave, terminal pay or similar benefits;

2. Materials and supplies, which may include articles and commodities which are consumed or materially altered when used, such as office supplies, operating supplies and repair and maintenance supplies, and all items of expense to any person, firm or corporation rendering a service in connection with repair, sale or trade of such articles or commodities;

3. Other services and charges, which may include all current expenses other than those listed in paragraphs 1, 2, 4, 5 or 6 of this section, such as services or charges for communications, transportation, advertising, printing or binding, insurance, public utility services, repairs and maintenance, rentals, miscellaneous items and all items of expenses to any person, firm or corporation rendering such services;

4. Capital outlays, which may include outlays which result in acquisition of or additions to fixed assets which are purchased by the municipality, including machinery and equipment, furniture, land, buildings, improvements other than buildings, and all construction, reconstruction, appurtenances or improvements to real property accomplished according to the conditions of a contract;

5. Debt service, which may include outlays in the form of debt principal payments, periodic interest payments, or related service

charges for benefits received in part in prior fiscal periods as well as in current and future fiscal periods; and

6. Fund transfers, which may include permanent transfers of resources from one fund to another.

Added by Laws 1979, c. 111, § 13. Amended by Laws 1991, c. 124, § 11, eff. July 1, 1991; Laws 2002, c. 98, § 6, eff. Nov. 1, 2002.

§11-17-214. Funds - Operating reserve.

A municipality may create an operating reserve for the purpose of providing a fund or reserve out of which to meet emergency expenditures.

Laws 1979, c. 111, § 14.

§11-17-215. Transfer of unexpended or unencumbered appropriation - Limitations on encumbrances or expenditures.

A. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one department to another within the same fund; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required.

B. Any fund balance in an enterprise fund of the municipality may be transferred to another fund of the municipality as authorized by the governing body. Other interfund transfers may be made only as adopted or amended according to Section 17-206 or 17-216 of this title.

C. Whenever the necessity for maintaining any fund of a municipality has ceased to exist and a balance remains in the fund, the governing body may authorize the transfer of the balance to the general fund or any other designated fund, unless otherwise provided by law.

D. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation for each department within a fund.

Added by Laws 1979, c. 111, § 15. Amended by Laws 1980, c. 226, § 4, emerg. eff. May 27, 1980; Laws 1991, c. 124, § 12, eff. July 1, 1991; Laws 2002, c. 98, § 7, eff. Nov. 1, 2002.

§11-17-216. Supplemental appropriations to funds - Amendment of budget.

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

1. Revenues received or to be received from sources not anticipated in the budget for that year;

2. Revenues received or to be received from anticipated sources but in excess of the budget estimates therefor; or

3. Unexpended and unencumbered fund balances on hand at the end of the preceding fiscal year which had not been anticipated or appropriated in the budget. Any appropriation authorizing the creating of an indebtedness shall be governed by the applicable provisions of Article 10 of the Oklahoma Constitution.

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

C. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease in the total appropriation of funds shall be adopted at a meeting of the governing body and filed with the municipal clerk and the State Auditor and Inspector.
Added by Laws 1979, c. 111, § 16. Amended by Laws 1991, c. 124, § 13, eff. July 1, 1991; Laws 2002, c. 98, § 8, eff. Nov. 1, 2002.

§11-17-217. Purpose-based budget - Definitions.

As used for a budget based on purpose:

1. "Appropriation" means an authorization to expend or encumber income and revenue provided for a purpose;

2. "Budget summary" means a tabular listing of revenues by source and expenditures by purpose for the budget year;

3. "Estimated revenue" means the amount of revenues estimated to be received during the budget year;

4. “Income and revenue provided” means the amount of estimated or actual income and revenue appropriated by the governing body of the municipality; and

5. “Purpose” means the specific program, project or activity for which the governing body provides an appropriation as listed in the budget.
Added by Laws 2006, c. 314, § 4, eff. July 1, 2006.

§11-17-218. Purpose-based budget - Procedures.

A municipality that selects a purpose-based budget format shall be subject to the following procedures in addition to other applicable provisions of the Municipal Budget Act:

1. Each municipality shall adopt an appropriation for each purpose as established by the governing body;

2. In all cases the appropriations shall not exceed the income and revenue provided by the governing body from estimated revenues and appropriated fund balance;

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

4. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one purpose to another; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required;

5. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation for each purpose as defined by the governing body;

6. The governing body may amend the budget to make supplemental appropriations to any purpose up to the amount of additional unappropriated income and revenues which become available during the fiscal year;

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

8. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease in the total appropriation of funds shall be adopted at a meeting of the governing body and filed with the municipal clerk and the State Auditor and Inspector. Added by Laws 2006, c. 314, § 5, eff. July 1, 2006.

§11-17-301. Municipal Fiscal Impact Act - Fiscal impact statement.

A. This section shall be known and may be cited as the "Municipal Fiscal Impact Act".

B. As used in this section, "direct adverse fiscal impact" means the cost in dollars to a municipality in this state of a statute which imposes a mandate for the new or additional application of

municipal resources or reduces existing municipal resources without providing revenue which would fully fund the mandate. Municipal resources may include, but are not limited to: law enforcement, fire protection, health and medical services, power and water services, streets, bridges or highways and recreational services.

C. A fiscal impact statement shall be required for any bill or resolution which is determined by the chair of the legislative committee to which the bill or resolution is assigned to have a potential direct adverse fiscal impact on municipalities in this state. The impact statement shall identify the estimated amount of the fiscal impact and any source of federal, state or local revenue that will be used to fund the proposed mandate. If the chair of the committee to which the bill or resolution is assigned determines that the bill or resolution, or a proposed amendment, is subject to the provisions of this section, the chair shall:

1. Request the preparation of a fiscal impact statement prior to placing the bill, resolution or amendment on the agenda to be considered at a meeting of the committee;

2. Provide notice to the principal author of the bill, resolution or amendment regarding the determination; and

3. Make the fiscal impact statement available, on and after the date of the committee meeting during which the bill or resolution is considered, to the author, members of the committee considering the bill or resolution and any other party requesting information.

D. No bill, resolution or amendment determined to have a direct adverse fiscal impact on municipalities in excess of One Hundred Thousand Dollars ($100,000.00) statewide shall be reported out of the committee to which it is assigned, or in the case of a floor amendment, shall be acted upon by the relevant house, unless a fiscal impact statement of the bill is made.

E. Any bill, resolution or amendment determined to have a direct adverse fiscal impact on municipalities in excess of One Hundred Thousand Dollars ($100,000.00) statewide for which an emergency clause has not received required approval pursuant to Section 58 of Article V of the Oklahoma Constitution shall not go into effect until July 1 of the following calendar year.

Added by Laws 2010, c. 372, § 1, eff. Nov. 1, 2010.

§11-18-101. Procedure for changing form of government - Petition or governing body resolution.

Any city operating pursuant to a statutory form of city government may change to any one of the other statutory forms of city government. The mayor shall issue an order calling for an election on the question of whether or not the city shall change its form of government if:

1. an initiative petition is filed with the governing body of the municipality; or

2. the governing body, by resolution, so directs.

The initiative petition or resolution of the governing body shall be filed at least one hundred twenty (120) days before the filing date for the next municipal general election and shall include the form of government which is proposed for adoption. The order calling for the election shall be issued by the governing body of the municipality within ten (10) days after a decision has been made on the ballot title, or within ten (10) days after the effective date of the resolution of the governing body.

Amended by Laws 1984, c. 126, § 33, eff. Nov. 1, 1984.

§11-18-102. Election on question - Notice.

The question of changing the statutory form of city government shall be submitted to the registered voters of the city at a general or special election to be held in the city not less than sixty (60) days nor more than ninety (90) days after the date of the order calling for the election. Notice of the election on the question shall be given by the governing body in the manner required for municipal elections.

Laws 1977, c. 256, § 18-102, eff. July 1, 1978; Laws 1993, c. 316, § 1, eff. Sept. 1, 1993.

§11-18-103. Ballots - Certification of results - Order.

The question submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the City of _____ change to the statutory _____
(name of proposed statutory form) form of city government?

( ) Yes.
( ) No.

The secretary of the county election board shall, within five (5) days after the canvass of returns, certify the results of the election on the question to the governing body. If a majority of the votes cast are in favor of adopting the proposed form of government, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the city has changed its form of government to the form adopted. The governing body by ordinance shall divide the city into the number of wards required under the statutory form of government which has been adopted.

Laws 1977, c. 256, § 18-103, eff. July 1, 1978.

§11-18-104. Effective date of new form - First elections - Transition of officers.

The first primary and general elections under the new form shall be held at the time that the next municipal primary and general elections would be held as if there were no change in the form of government. The form of government which has been adopted shall go into full effect when the terms of officers elected under the new

form begin. Every appointive officer or employee holding an office or position which exists under both the previous and new forms of government shall continue in his office or position in the new form of government until his services terminate or are terminated in the manner provided by the new form.
Laws 1977, c. 256, § 18-104, eff. July 1, 1978.

§11-18-105. Record of change.
The resolution declaring the change in form of city government shall be recorded in the office of the county clerk in the county in which the situs of the city government is located and filed in the office of the Secretary of State and in the archives of the city.
Laws 1977, c. 256, § 18-105, eff. July 1, 1978.

§11-19-101. Procedure for changing name - Petition or governing body resolution.
The mayor of an incorporated municipality shall issue an order calling for an election on the question of whether or not the municipality shall change its name if:
1. an initiative petition is filed with the governing body; or
2. the governing body, by resolution, so directs.
The initiative petition or resolution of the governing body shall set forth the name of the municipality, its location, and the new name which is proposed for adoption.
Amended by Laws 1984, c. 126, § 34, eff. Nov. 1, 1984. Amended by Laws 1984, c. 126, § 34, eff. Nov. 1, 1984.

§11-19-102. Election on question - Notice.
The question of changing the name of the municipality shall be submitted to the registered voters of the municipality at a general or special election to be held in the municipality not less than thirty (30) nor more than sixty (60) days after the date of the order calling for the election. Notice of the election on the question shall be given by the governing body in the manner required for municipal elections.
Laws 1977, c. 256, § 19-102, eff. July 1, 1978.

§11-19-103. Ballots - Certification of results - Order.
The question submitted to the registered voters of the municipality shall be substantially in the following form:
Shall the _____ (City or Town) of _____ change its name to the (City or Town) of _____?
( ) Yes.
( ) No.
The secretary of the county election board shall, within five (5) days after the canvass of returns, certify the results of the election on the question to the governing body. If a majority of the

votes cast are in favor of adopting the new name, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the name of the municipality has been changed and giving the new name of the municipality. The resolution shall also state the date that the change will take effect. The effective date shall be not less than thirty (30) days after the resolution is adopted.
Laws 1977, c. 256, § 19-103, eff. July 1, 1978.

§11-19-104. Record and publication of change.
The resolution declaring the change of name of the municipality shall be recorded in the office of the county clerk in the county in which the situs of the municipal government is located and filed in the office of the Secretary of State and in the archives of the municipality. The resolution shall also be published at least once in a newspaper of general circulation in the municipality.
Laws 1977, c. 256, § 19-104, eff. July 1, 1978.

§11-20-101. Review of wards after each federal census.
A. As soon as practicable following each federal census, the municipal governing body shall review the wards and ward boundaries of the municipality. The governing body shall change the boundaries or number of wards, if necessary, in the manner provided by this article, so that the wards are formed of compact and contiguous territory and are substantially equal in population.
B. The municipal governing body, to the extent practicable, shall not subdivide precincts established by a county election board in establishing ward or council boundaries.
Laws 1977, c. 256, § 20-101, eff. July 1, 1978; Laws 1993, c. 316, § 2, eff. Sept. 1, 1993.

§11-20-102. Procedure for proposing ward changes.
A change in the name, boundaries, or number of wards in a municipality may be proposed at any time by:
1. a resolution of the municipal governing body; or
2. an initiative petition filed with the governing body of the municipality.
Any change in the number or boundaries of wards shall be made with due regard to the equitable apportionment of the population and the convenience and contiguity of the wards.
Amended by Laws 1984, c. 126, § 35, eff. Nov. 1, 1984.

§11-20-103. Changes proposed by governing body - Notice.
The governing body shall give at least thirty (30) days' notice of the proposal by the governing body to change the name, boundaries, or number of wards. The notice shall be published at least once. After the thirty-day notice period, the governing body may make the

proposed changes by ordinance which shall be approved by a two-thirds (2/3) vote of its members.
Amended by Laws 1984, c. 126, § 36, eff. Nov. 1, 1984.

§11-20-104. Change adopted by initiative petition.

Within thirty (30) days after an election adopting the question in the initiative petition requesting a change in the name, boundaries or number of wards, the municipal governing body by ordinance shall make the requested changes.
Added by Laws 1977, c. 256, § 20-104, eff. July 1, 1978. Amended by Laws 2001, c. 296, § 1, eff. July 1, 2001.

§11-20-105. Effect of change.

Unless otherwise provided for by the governing body, the effective date of a change in the name, boundaries, or number of wards shall be the effective date of the ordinance making such change. Election of councilmembers or trustees for wards which have no representation due to such change shall take place at the time established by the governing body of the municipality but not later than the next regular municipal election. The terms of office of such new councilmembers or trustees shall be as provided for by the law applicable to the form of municipal government. A change in the boundaries or number of wards shall not disqualify a councilmember or trustee from completing the term for which he was elected.
Amended by Laws 1984, c. 126, § 37, eff. Nov. 1, 1984.

§11-20-106. Record of change.

The governing body shall provide for the recording and filing of changes made in the name, boundaries or number of municipal wards.
Laws 1977, c. 256, § 20-106, eff. July 1, 1978.

§11-21-101. Authority to change municipal limits.

The municipal governing body by ordinance may add to the municipality territory adjacent or contiguous to its corporate limits and increase or diminish the corporate limits as the governing body deems desirable for the benefit of the municipality.
Laws 1977, c. 256, § 21-101, eff. July 1, 1978.

§11-21-102. Annexation of territory separated by railway, intervening strip or highway right-of-way.

Where any territory to be annexed is separated from the corporate limits of the municipality only by a railway right-of-way, an intervening strip less than four (4) rods wide, or a highway right-of-way, the territory shall be considered adjacent or contiguous to the municipality.
Added by Laws 1977, c. 256, § 21-102, eff. July 1, 1978. Amended by Laws 1999, c. 220, § 1, eff. Nov. 1, 1999.

§11-21-103. Cities or towns - Annexation procedure.

A. Before the governing body of a city or town may annex any territory adjacent or contiguous to the city or town, it must obtain the written consent of the owners of at least a majority of the acres to be annexed to the municipality and provide for notice and a public hearing on the proposed annexation of the territory in the manner provided in subsection B of this section. The annexation of land by a connecting strip serving no municipal purpose other than to establish statutory contiguity or adjacentness, or to capture territory within the area to be annexed, constitutes an impermissible exercise of state-delegated authority by a municipality and shall be prohibited. Municipalities with a population of twelve thousand (12,000) or less may only annex up to eight (8) square miles in one area at any one time provided the municipality obtains the written consent of the owners of at least sixty-five percent (65%) of the acres to be annexed and twenty-five percent (25%) of the population to be annexed.

B. The governing body shall provide the notice and public hearing required in subsection A of this section in the following manner:

1. The governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation. The notice shall state the date, time, and place the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published;

2. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed and to the Sales and Use Tax Division of the Oklahoma Tax Commission; provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and

3. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice.

C. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed.

D. Before any territory is annexed to a municipality, without the written consent of the owners of at least a majority of the acres to be annexed to the municipality in accordance with subsection A of this section, the governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the municipality shall prepare a plan to extend municipal services including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services appropriate to the proposed annexed territory. The plan shall provide that the municipality complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the municipality adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the municipality shall complete the service plan within one hundred twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the municipality at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If municipality services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the municipality to extend municipal services to any other area of the city or town. Such notice, hearing and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place when the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of clarifying any road maintenance responsibilities; provided that the notice of annexation shall be mailed by certified mail to every person who owns parcel of

land of five (5) acres or more used for agricultural purposes and to the board of county commissioners of the respective county where the proposed annexation is located. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice; and

3. The proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed at the public hearing. The plan may be amended through negotiation at the hearing. The final service plan shall be incorporated into and made part of the ordinance annexing the territory.

E. In any situation where the territory to be annexed by any city or town includes land owned by a state beneficiary public trust or that was previously owned and conveyed by a state beneficiary public trust, annexation shall not be carried out under the provisions of subsection D of this section, but instead shall require the written consent of all of said trust and transferees of said trust.

F. The prevailing property owner in an annexation dispute shall be entitled to court costs and reasonable attorney fees, including, but not limited to, when a municipality withdraws, revokes or otherwise reverses the ordinance at issue in response to litigation before issuance of a final judgment.

G. As used in this section:

1. "Airport" means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;

2. "Military installation" means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government or by any entity of local government after transfer of title to such installation; and

3. "Spaceport" means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

H. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after July 1, 2003, or parcels of land forty (40) acres or more used for agricultural purposes prior to annexation and have continued in

uninterrupted agriculture use annexed into the municipal limits shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided, that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any ordinances or regulations related to compliance with environmental standards for that system.

I. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.

J. If territory is annexed pursuant to this section, the annexing governing body shall provide notice by first-class mail together with a map and plat of the annexed territory to the Sales and Use Tax Division of the Oklahoma Tax Commission prior to the effective date of such annexation. The Tax Commission shall notify the known sales tax vendors within the boundaries of the annexed territory as provided by Section 119 of Title 68 of the Oklahoma Statutes.

Added by Laws 1977, c. 256, § 21-103, eff. July 1, 1978. Amended by Laws 1979, c. 44, § 5, emerg. eff. April 9, 1979; Laws 1990, c. 197, § 1, emerg. eff. May 10, 1990; Laws 2003, c. 236, § 1, eff. July 1, 2003; Laws 2004, c. 79, § 1, eff. Nov. 1, 2004; Laws 2004, c. 528, § 1, eff. Nov. 1, 2004; Laws 2005, c. 1, § 2, emerg. eff. March 15, 2005; Laws 2009, c. 146, § 1, eff. Nov. 1, 2009; Laws 2009, c. 224, § 2, eff. Nov. 1, 2009; Laws 2010, c. 2, § 2, emerg. eff. March 3, 2010; Laws 2011, c. 60, § 1, eff. Nov. 1, 2011; Laws 2014, c. 209, § 1, emerg. eff. April 30, 2014; Laws 2015, c. 124, § 1, eff. Nov. 1, 2015.

NOTE: Laws 2004, c. 514, § 2 repealed by Laws 2005, c. 1, § 3, emerg. eff. March 15, 2005. Laws 2009, c. 197, § 1 repealed by Laws 2010, c. 2, § 3, emerg. eff. March 3, 2010.

§11-21-104. Repealed by Laws 2011, c. 60, § 2, eff. Nov. 1, 2011.

§11-21-105. Annexation by petition - Notice - Cost - Governing body ordinance.

At least three-fourths of the registered voters and the owners of at least three-fourths (in value) of the property in any territory adjacent or contiguous to the municipality may request annexation by

signing and filing a petition with the governing body of the municipality. The petitioners must give notice of the presentation of the petition by publication at least once each week for two (2) successive weeks in a newspaper of general circulation in the municipality where the petition has been presented. The municipality may pay the cost of the annexation proceedings. After the notice of the petition has been given, the governing body by ordinance may annex the territory to the municipality.
Laws 1977, c. 256, § 21-105, eff. July 1, 1978; Laws 1980, c. 128, § 1, eff. Oct. 1, 1980.

§11-21-106. Failure to grant request in annexation petition - Filing in district court.

If the governing body fails to grant the request contained in a petition for annexation within thirty (30) days after the last publication of the notice, or refuses to grant the request, the petitioners may file their petition with the clerk of the district court in the county in which the situs of the municipal government is located. Notice of the filing shall be served upon a deputy municipal clerk and upon the mayor together with a notice of the time and place that the district court will hear the petition. The notice must be given at least ten (10) days before the date of the hearing. The hearing on the petition may be held at a regular or special term of the district court or by the court in vacation.
Added by Laws 1977, c. 256, § 21-106, eff. July 1, 1978. Amended by Laws 2007, c. 362, § 1, eff. Nov. 1, 2007.

§11-21-108. Lands platted for educational or charitable institutions - Annexation only by petition.

When any lands adjacent to the corporate limits of any municipality have been surveyed and platted into lots and blocks for the purpose of being sold in whole or in part to establish, build or maintain any religious, fraternal, or benevolent school, college, home or other educational or charitiable institution, these lands may not be annexed to the municipality without a petition requesting annexation first being signed and filed by at least a majority of the resident owners of the lands to be annexed.
Laws 1977, c. 256, § 21-108, eff. July 1, 1978.

§11-21-109. Taxation of annexed territory.

A. Tracts of land in excess of forty (40) acres which are annexed to a municipality and used for industrial or commercial purposes shall not be subject to ad valorem taxes at the municipal rate. Tracts of annexed land in excess of five (5) acres which are used by persons engaged in farming or ranching, and all farm animals and livestock, and all agricultural implements and machinery and household goods located on the land, shall not be subject to

municipal taxes unless the municipality furnishes services to these tracts as are ordinarily furnished to municipal residents. Tracts of land with an area of width no greater than three hundred twenty-six (326) feet at the widest point which are annexed to a municipality shall not be subject to municipal taxes, unless such tracts are annexed pursuant to paragraph 2 of subsection A of Section 21-103 of this title. No land which is used for agricultural purposes may be taken within the limits of a town and taxed at a greater rate than land which is adjacent to but outside the town limits.

B. The revenue and taxation ordinances of any municipality and the licensing and regulatory authority of any municipality shall not apply or extend to any military installation located on federal property which has been annexed in part or in whole by a municipality on or after July 1, 1998, except to the following extent. The sales, use and occupancy tax ordinances of a municipality shall be applicable and extend to the part or whole of the military installation on federal property annexed on or after July 1, 1998, but the applicability of such ordinances shall be limited to activities on the military installation engaged in by the private sector involving the sale of goods and services taxable under the Oklahoma Sales Tax Code, the storage, use or other consumption of tangible property taxable under the Oklahoma Use Tax Code, and the occupancy of hotel/motel rooms for rent whether received in money or otherwise.

Added by Laws 1977, c. 256, § 21-109, eff. July 1, 1978. Amended by Laws 1998, c. 119, § 1, eff. July 1, 1998; Laws 2007, c. 362, § 2, eff. Nov. 1, 2007; Laws 2014, c. 320, § 1, eff. Nov. 1, 2014.

§11-21-109A. Repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 20, emerg. eff. June 28, 2006.

§11-21-110. Detachment of municipal territory - Procedure.

A. Territory may be detached from the corporate limits of a municipality by the governing body when:

1. An ordinance of the governing body so directs; or

2. A petition requesting detachment, signed by at least three-fourths (3/4) of the registered voters and by the owners of at least three-fourths (3/4), in value, of the property to be detached, is filed with the governing body.

Only land which is within the limits of the municipality and upon its border and not laid out in lots and blocks, or land which had been annexed to a municipality, may be detached by petition.

B. Petitioners for detachment of municipal territory shall comply with the following procedures:

1. A true and complete unsigned copy of the petition requesting detachment shall be filed with the clerk of the municipality before it is circulated and signed by at least three-fourths (3/4) of the

registered voters and by the owners of at least three-fourths (3/4), in value, of the property to be detached, as required by subsection A of this section;

2. Signed copies of the petition requesting detachment shall be filed with the clerk of the municipality within ninety (90) days after the initial filing of the unsigned copy with the clerk; and

3. Notice of the filing of the signed petition requesting detachment with the clerk of the municipality shall be given in the same manner provided for petitions requesting annexation.

Failure to comply with the notice requirement or the other procedures set forth in this subsection shall render the petition for detachment insufficient and no action thereon shall be required by the clerk or governing body of the municipality.

C. When signed copies of the petition requesting detachment are timely filed with the clerk of the municipality, the clerk shall determine the sufficiency of the signatures appearing on the petition. The clerk shall then publish, in at least one newspaper of general circulation in the municipality, a notice of the filing and the apparent sufficiency or insufficiency of the petition. Within ten (10) days following the publication, the governing body of the municipality shall hold a public hearing on the petition requesting detachment and take such action thereon as the governing body deems appropriate, which may include approval, denial, or deferral.

D. Appeal to the district court concerning any action by the clerk or governing body of the municipality on a petition requesting detachment shall be in the same manner provided for petitions requesting annexation.

Added by Laws 1977, c. 256, § 21-110, eff. July 1, 1978. Amended by Laws 1999, c. 343, § 1, eff. Nov. 1, 1999.

§11-21-111. Liability of detached territory.

Any lands detached from a municipality and the owners thereof shall be liable to the municipality only for the cost of public improvements which may have been constructed on the detached lands at the expense of the municipality. The municipality shall have no claim upon nor collect any tax from the detached territory for any public debt or the cost of any public improvements which have not been expended directly upon the detached lands.

Laws 1977, c. 256, § 21-111, eff. July 1, 1978.

§11-21-112. Record regarding territory annexed or detached.

When any territory is annexed to or detached from a municipality, whether by ordinance or court order, the mayor shall file and record a duly certified copy of the ordinance or court order, together with an accurate map or plat of the territory, in the office of the county clerk of the county in which the territory, or the greater portion of it, is located and with the Ad Valorem Division of the Oklahoma Tax

Commission. The record in the office of the county clerk shall be conclusive evidence of such annexation or detachment.
Added by Laws 1977, c. 256, § 21-112, eff. July 1, 1978. Amended by Laws 2000, c. 314, § 1, eff. July 1, 2000.

§11-21-113. Annexation of unoccupied property for road and bridge construction.

Upon proper notification, a municipality may annex any unoccupied property of an owner who is not a resident of this state which is adjacent or contiguous to property already within the municipal limits for the sole purpose of constructing roads and/or bridges which are provided for in the comprehensive plan of the municipality, if such owner does not object to the annexation within thirty (30) days of the publication and mailing of such notice. For purposes of this subsection, notice shall be given by posting a copy of the notice on the subject property, by publication in a legally qualified newspaper of general circulation in the area in which the property to be annexed is located and by certified mail to the owner of such property as shown by the current year's tax rolls in the county treasurer's office.
Added by Laws 1990, c. 215, § 4, emerg. eff. May 18, 1990.

§11-21-114. Petition to annex unincorporated territory enclosed by boundaries of other municipality - District court action.

A. The majority of the owners of a subdivision or property owners located in unincorporated territory which is enclosed by the boundaries of a municipality may petition for annexation in writing to another municipality if:

1. The width of the boundary is less than twenty (20) feet; and

2. The property is contiguous to the other municipality except for the boundary.

B. The governing body of the other municipality may grant the petition after notifying the enclosing municipality in writing at least thirty (30) days prior to adoption of the annexation ordinance. The boundary of the enclosing municipality shall recede to the extent of the annexation. The enclosing municipality at any time may reestablish its boundary within unincorporated territory enclosed by it on or after July 1, 2001. The enclosing municipality may bring an action in district court to invalidate the annexation. If the district court finds that the conditions for annexation exist and that the enclosing municipality has not demonstrated a substantial governmental interest in the use of the property, it shall uphold the annexation.
Added by Laws 1991, c. 57, § 1, eff. Sept. 1, 1991. Amended by Laws 2001, c. 150, § 1, eff. July 1, 2001.

§11-21-115. Inclusion of territory in public records or notices – Presumption of validity.

In the event any territory has been included within public records or public notices describing the corporate boundaries of a municipality for purposes of an election or ad valorem tax assessment of the municipality for five (5) consecutive years, there shall be a rebuttable presumption that the territory is situated within the municipality. The public records and public notices shall be evidence of the jurisdiction of the municipality over the territory in all suits by or against the municipality.
Added by Laws 1999, c. 220, § 2, eff. Nov. 1, 1999.

§11-21-121. Furnishing retail electric service to certain electric consuming facilities prohibited.

Except as provided in this section, municipal corporations or public trusts thereof, the Grand River Dam Authority, rural electric cooperatives or investor-owned electric utilities shall not furnish retail electric service to an electric consuming facility which is currently being served, or which was being served and the electric facilities are in place to render such a service, by a municipal corporation or public trust thereof, the Grand River Dam Authority, a rural electric cooperative or an investor-owned electric utility unless the entities involved have agreed by mutual consent, in writing, to such transaction. For purposes of this section, the term "electric consuming facility" means everything that utilizes electric energy from a central station source.
Added by Laws 1989, c. 26, § 1, emerg. eff. March 30, 1989. Amended by Laws 1992, c. 245, § 1, emerg. eff. May 21, 1992; Laws 1998, c. 391, § 1, emerg. eff. June 10, 1998.

§11-21-201. Municipalities subject to inundation - Acquiring new townsite.

When fifty percent (50%) or more of the area of a municipality shall be liable to inundation by the construction of a lake, reservoir or other body of water, and the municipal governing body determines that it is impracticable to annex adjacent or contiguous terrritory which is necessary for the municipality, the governing body may acquire a new site for the municipality.
Laws 1977, c. 256, § 21-201, eff. July 1, 1978.

§11-21-202. Approval of plat - Special election.

The owners of a tract of land located not more than ten (10) miles from the nearest limits of the municipality, or located at any greater distance which is reasonable under the circumstances in order to secure the most desirable site, may present to the governing body a plat of the tract of land prepared in the same manner as a plat for a proposed municipal incorporation. The governing body shall examine

the plat and may require amendments and changes as it deems expedient. If the governing body finds that the area contained in the plat is a suitable and desirable site for the municipality, it shall call for a special election on the question of whether the territory comprised within the plat shall be annexed to the municipality and serve as the new site for the municipality.
Laws 1977, c. 256, § 21-202, eff. July 1, 1978.

§11-21-203. Approval of annexation - Recording of resolution and plat.

If a majority of the votes cast in the election are in favor of annexation of the territory and relocation of the municipality, the governing body shall so declare by resolution, and a copy of the resolution and the plat shall be filed for record in the office of the county clerk and the office of the Secretary of State. If part or all of the territory comprised within the new site is located in a county other than that in which the municipality is located, the resolution and plat shall be recorded in each county. Upon the date of the filing of the resolution and the plat, the territory shall be annexed to and be the site of the municipality.
Laws 1977, c. 256, § 21-203, eff. July 1, 1978.

§11-21-204. New boundaries of the municipality.

All portions of land within the original boundaries of the municipality shall continue to be within its limits and subject to its governmental authority. The governing body may, in the interest of the public or the owners of such land, detach any territory embraced within its original limits in the manner provided by law for the detachment of municipal territory.
Laws 1977, c. 256, § 21-204, eff. July 1, 1978.

§11-21-205. Additional powers of governing body in relocating municipality.

In relocating a municipality subject to inundation, the governing body may also:

1. Provide by ordinance for the acquisition of a new site through the exercise of the right of condemnation in the manner provided by law for municipalities, or by negotiated purchases or in any other lawful manner;

2. Provide for the reimbursement of owners of the annexed property through the issuance of bonds in the manner provided by law for cities and towns, and hold any necessary bond election together with the special election on the question of annexation and relocation, or through the encumbrance of the acquired property or in any other lawful manner;

3. Provide for the administration of the annexed property, including, but not limited to, the authority to zone and other

similar and usual powers for regulating use and development of realty and the power to provide for and regulate the sale of lots and excess property, if any, and to enact ordinances as will facilitate the orderly and equitable relocation of the municipality; and

4. Act in concert with, or deal with, any private person, agency, nonprofit corporation, governmental body or agency or other appropriate entity in the accomplishment of these ends.

Laws 1977, c. 256, § 21-205, eff. July 1, 1978.

§11-21-222. Condemnation proceedings relating to rural electric cooperatives or electric public utilities - Moratorium - Implementation of retail consumer choice contingency.

There is hereby declared a moratorium on all municipal condemnation proceedings instituted pursuant to Section 437.2 of Title 18 of the Oklahoma Statutes, initiated prior to the enactment of electric restructuring enabling legislation and the implementation of consumer choice of retail electric energy suppliers. The moratorium shall also apply to all municipalities or public trusts thereof which attempt to condemn the facilities of electric public utilities or rural electric cooperatives for the purpose of utilizing such facilities for the delivery of electric power and energy. The moratorium shall remain in effect until the enactment of electric restructuring enabling legislation and implementation of consumer choice of retail electric energy suppliers. Upon such enactment of electric restructuring enabling legislation and implementation of consumer choice of retail electric energy suppliers, the municipal condemnation provisions authorizing municipalities with electric utilities to condemn the facilities of rural electric cooperatives contained in Section 437.2 of Title 18 of the Oklahoma Statutes is hereby repealed. The moratorium provided for herein shall have prospective and retroactive application.

Added by Laws 1998, c. 391, § 2, emerg. eff. June 10, 1998. Amended by Laws 2001, c. 397, § 1, emerg. eff. June 4, 2001.

§11-22-101. Corporate powers of municipalities.

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

1. Sue and be sued;

2. Purchase and hold real and personal property for the use of the municipality;

3. Sell and convey any real or personal property owned by the municipality and make orders respecting the same as may be conducive to the best interests of the municipality;

4. Make all contracts and do all other acts in relation to the property and affairs of the municipality, necessary to the good government of the municipality, and to the exercise of its corporate and administrative powers; and

5. Exercise such other powers as are or may be conferred by law.
Laws 1977, c. 256, § 22-101, eff. July 1, 1978.

§11-22-101.1. Political activities by municipal employees - Restrictions.

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

Any municipal employee may actively participate in partisan and nonpartisan political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of thissection as to such employees. Municipal corporations may establish employment requirements requiring municipal employees to refrain from filing as a candidate for public office while employed by said municipality.
Amended by Laws 1983, c. 276, § 1, emerg. eff. June 24, 1983.

§11-22-101.2. Employer coercion prohibited.

It shall be unlawful for the governing body or officer of any municipal corporation in this state to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings.
Laws 1981, c. 311, § 2.

§11-22-101.3. Violations.

Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor.
Laws 1981, c. 311, § 3.

§11-22-102. Proof of legal organization or ordinances - Recovery of costs and attorney fees.

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

B. A municipality shall be entitled to recover its costs and attorneys fees on the same terms and in the same manner as any other party.
Amended by Laws 1984, c. 126, § 38, eff. Nov. 1, 1984.

§11-22-103. Service of notice or process on municipality.

Any notice or process affecting a municipality shall be served upon the municipal clerk, or in his or her absence then upon a deputy municipal clerk and upon the mayor.

Added by Laws 1977, c. 256, § 22-103, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 39, eff. Nov. 1, 1984; Laws 2007, c. 362, § 3, eff. Nov. 1, 2007.

§11-22-104. Right to engage in business - Public utilities and improvements - Eminent domain - Issuance of bonds - Lease of public utility.

Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality;

2. Acquire, own, and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose including but not limited to public utility and public park purposes, and for the location thereon of waterworks, electric light and gas plants and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction plants, pipelines for the transmission and transportation of gas, water, stormwater, and sewerage, and for any plant for the manufacture of any material for public improvement purposes and public buildings;

3. Exercise the right of eminent domain for any municipal purpose, within or without its corporate limits, and to establish, lay, and operate any plant or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made;

4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same;

5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks, and improvements;

6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by such municipally owned or controlled public utility, business enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the

authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality;

7. Lease at a stipulated rental rate any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future; and

8. Exercise powers necessary to carry out the purpose of the Local Development Act as set forth in Section 854 of Title 62 of the Oklahoma Statutes.

Added by Laws 1977, c. 256, § 22-104, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 40, eff. Nov. 1, 1984; Laws 1987, c. 23, § 1, eff. Nov. 1, 1987; Laws 1998, c. 63, § 1, eff. Nov. 1, 1998.

§11-22-105. Condemnation of private property.

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

Added by Laws 1977, c. 256, § 22-105, eff. July 1, 1978.

§11-22-105.1. Displacing private company providing solid waste collection service - Notice and hearing - Acquisition by purchase, donation, or condemnation - Judicial review of report of commissioners.

A. Pursuant to Section 2-10-102 of Title 27A of the Oklahoma Statutes, it is the policy of this state to regulate the management of solid waste in order to protect the public health, safety and welfare. For this purpose and for purposes of this section, the management of solid waste shall be a matter of statewide interest.

B. No municipality shall displace or pass an ordinance to displace a private company providing solid waste service without first:

1. Holding at least one public hearing seeking comment on the advisability of the municipality providing such service;

2. Providing at least forty-five (45) days written notice of the hearing, delivered by first-class mail to all private solid waste companies which provide service in the municipality; and

3. Providing public notice of the hearing.

Following the final public hearing held pursuant to this section, but in no event longer than one (1) year after the date of the hearing, if the municipality elects to provide such solid waste services and displace the private solid waste services company, the municipality

shall purchase by condemnation the private solid waste services as set forth in this section.

C. A municipality shall have the authority to acquire by purchase, donation, or condemnation such interests in any private company providing solid waste services operating within the limits of the municipality. The municipality shall give the owner of the displaced private solid waste company the opportunity to sell the displaced private solid waste services to the municipality at an agreed upon or negotiated price or the municipality may acquire the business by condemnation as provided in this section.

D. If the municipality seeks to condemn the displaced private solid waste services, the district judge of the county in which the displaced services are located, upon petition of either party, shall direct the sheriff of the county to summon three disinterested freeholders, to be selected by the judge as commissioners, and who shall not have a conflict of interest. The commissioners shall be sworn to perform their duties impartially and justly. The commissioners shall inspect the company and the displaced services and consider the injury which the owner may sustain by reason of the condemnation, and they shall assess the just compensation to which the owner is entitled. The commissioners shall make a report in writing to the clerk of the court, setting forth the quantity, boundaries, and just compensation for the property or services taken, and amount of injury done to the business, either directly or indirectly, which they assess to the owner. The report shall be filed and recorded by the clerk.

E. Immediately upon payment to the clerk of the court of the sum assessed by the commissioners, the municipality shall be authorized to provide solid waste services in the area serviced by the owner of the business. If the owner refuses to cease providing the solid waste services pursuant to this section, the court shall issue an order, upon proof, enjoining the owner from providing the solid waste services in the areas subject to such condemnation.

F. The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party in the clerk's office within thirty (30) days after the filing of the report. The court, after a hearing, shall make such order as right and justice may require, either by confirmation, rejection, or by ordering a new appraisement on good cause shown. In the event a new appraisement is ordered, the municipality shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise. Either party may, within sixty (60) days after the filing of such report, file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding the

trial does not recover a verdict more favorable to such party than the assessment of the commissioners, all costs in the district court shall be taxed against such party. If, after the filing of exceptions to the report of commissioners as provided in this section, the municipality shall fail to establish its right to condemn such business, the owner shall be restored to possession of the business, or part thereof, and the municipality shall pay the owner for any damages sustained through the occupation by the municipality. If such damages cannot be determined by amicable settlement, the damages shall be determined by jury trial in the same proceedings.

G. Either party aggrieved may appeal to the Supreme Court from the decision of the district court on exceptions to the report of commissioners, or jury trial. The review or appeal shall not delay the work of the municipality in question if the award of commissioners, or jury, as the case may be, has been deposited with the clerk for such owner. In no case shall the municipality be liable for the costs on the review or appeal unless the owner of the business shall be adjudged entitled, upon either review or appeal, to a greater amount of damages than was awarded by the commissioners. The municipality shall in all cases pay the cost of the commissioners' fees and expenses, for their services, as determined and ordered paid by the judge of the district court in which such case is pending. However, poundage fees and condemnation fees shall only be paid by the municipality in the event of appeal resulting in a jury verdict in excess of the commissioners' award. Under no circumstances shall any poundage fees or condemnation fees be assessed against the recipient of the award. In case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the court to the county clerk and be filed.

H. As used in this section:

1. "Displace" or "displacement" means a municipality's provision of a service which prohibits a private company from providing the same service and which the company is providing at the time the decision to displace is made. Displace or displacement does not mean:

a. competition between the municipality and private companies for individual contracts,

b. situations where a municipality, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company, or, decides to provide for such services itself,

c. situations where action is taken against the private company because the company has acted in a manner threatening to the public health, safety and welfare of

the citizens of the municipality or resulting in a substantial public nuisance,

d. situations where action is taken against the private company because the company has materially breached its contract with the municipality, or

e. entering into a contract with a private company to provide solid waste collection so long as the contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing solid waste collection;

2. "Just compensation" means the value of the business taken, and in addition, any injury to any part of the business not taken. Any special and direct benefits to the part of the business not taken may be offset only against any injury to the business not taken. If only a part of the business is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole business immediately before the taking and the fair market value of that portion left remaining immediately after the taking; and

3. "Solid waste" means all putrescible and nonputrescible refuse in solid, semisolid, or liquid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, roofing material, solid or semisolid commercial and industrial wastes including explosives, biomedical wastes, chemical wastes, herbicide and pesticide wastes, organics, scrap materials, and materials that are destined for recycling, reuse, conversion, or processing, whether source separated or not.

Added by Laws 1998, c. 18, § 1, eff. Nov. 1, 1998. Amended by Laws 2013, c. 65, § 1, eff. Nov. 1, 2013.

§11-22-106. License tax on occupations - Authority to levy and collect - Penalties.

A. A municipal governing body may levy and collect a license tax on auctioneers, contractors, druggists, hawkers, peddlers, bankers, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, public boarding houses, billiard tables, bowling alleys, and other amusement devices, drays, hacks, carriages, omnibuses, carts, wagons and other vehicles used in the municipality for pay, hay scales, lumber dealers, furniture dealers, saddle or harness dealers, stationers, jewelers, livery stable keepers, real estate agents, express companies or agencies, telegraph companies or agencies, shows, theatres, all kinds of exhibitions for pay, also photographers, photographers' agents, agents of all kinds and solicitors. The taxes so levied and collected shall be applied for the use and benefit of the municipality as the governing body may direct.

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

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

D. A municipal body which levies and collects a license tax on licensed plumbing, electrical and mechanical contractors pursuant to subsection A of this section, may only assess the tax on the licensed contractor and shall not levy or collect such tax on a licensed journeyman or apprentice. The amount of tax assessed shall be determined by the municipalities based on the number of licensed journeymen or apprentices under the supervision of the licensed contractor.

Added by Laws 1977, c. 256, § 22-106, eff. July 1, 1978. Amended by Laws 2003, c. 318, § 1, eff. Nov. 1, 2003.

§11-22-107. Licenses and fees regulated by ordinance - Expiration - Issuance - Seal - Exchange of information for collecting of state and local taxes.

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

Laws 1977, c. 256, § 22-107, eff. July 1, 1978; Amended by Laws 1984, c. 126, § 41, eff. Nov. 1, 1984.

§11-22-107.1. Regulation of video services systems.

A. A municipality may by ordinance or otherwise grant a certificate, license, permit or franchise for the operation of a video services system, unless such authority is already provided for by law. Any certificate, license, permit or franchise granted pursuant to this section shall constitute a bargained contract between the municipality and the video services provider and shall provide for a consideration payment to the municipality as rental for the privileges granted to the provider to use the public ways and grounds within the municipality in furtherance of its video services business. The rental payment shall be set at the amount bargained between the municipality and the video services provider but shall not exceed five percent (5%) of the annual gross revenues derived by the video services provider from the provision of video services within the municipality. Any certificate, license, permit or franchise issued by the governing body shall be nonexclusive and shall not exceed a period of twenty-five (25) years and may be revocable by the governing body if said body determines that the holder of the certificate, license, permit or franchise has willfully failed or neglected to perform duties pursuant to the terms of the grant of the certificate, license, permit or franchise. Nothing herein shall limit the authority of a municipality to comply with state or federal law.

B. In the event a municipality grants an overlapping certificate, license, permit or franchise for video services within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing certificate, license, permit or franchise within the municipality the holder of the existing certificate, license, permit or franchise shall be entitled, upon written notice to the municipality, to adopt the terms in the overlapping certificate, license, permit or franchise that are more favorable or less burdensome than those in the existing certificate, license, permit or franchise and the adopted terms shall become enforceable by the municipality.

C. In addition to any other authority granted to municipalities by this section or other applicable law, a municipality may also adopt an ordinance regulating a video services system pursuant to its police power. No municipal provisions regulating a video services system may be adopted which are inconsistent with either state or federal law or with the terms and conditions of the certificate, license, permit or franchise bargained by the municipality and the video services provider.

D. In awarding or renewing a certificate, license, permit or franchise for video services, a municipality may require adequate assurance that the video services system provider will provide adequate public, educational, and governmental access channel capacity, facilities or financial support. A video services system provider may, at its sole option, provide a "family friendly" tier of

video services in lieu of channel capacity, facilities, or financial support for public access as a condition of any certificate, license, permit or franchise for video services or renewal thereof. Nothing herein shall affect any channel capacity, facilities, or financial support for educational or governmental access contained in any certificate, license, permit or franchise for video services or renewal thereof.

E. A "family friendly" tier of services is a group of channels, offered to customers pursuant to Federal Communications Commission (FCC) regulations, that primarily contains programming with a television viewing rating of TV-Y, TV-Y7 or TV-G.

F. "Video services" means video programming, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to the delivery technology, including Internet protocol technology. "Video services" shall not include video programming provided by a commercial mobile service provider as defined in 47 U.S.C., Section 332(d) or provided solely as part of and via a service that enables users to access content, information, electronic mail, messaging and other services offered over the public Internet.

Added by Laws 1985, c. 65, § 1, eff. Nov. 1, 1985. Amended by Laws 1988, c. 147, § 1, eff. Oct. 11, 1988; Laws 2006, c. 168, § 1, eff. Nov. 1, 2006; Laws 2016, c. 47, § 1, emerg. eff. April 12, 2016.

§11-22-107.2. Sellers of video services.

A. Unless otherwise specifically prohibited by law, a seller of video services may assess a late fee on delinquent accounts having an unpaid balance of Twelve Dollars ($12.00) or more.

B. The seller of video services shall conspicuously disclose, in the contract for service and on each statement or invoice, the terms on which a late fee may be assessed by the seller including the amount of the fee.

C. No late fee shall be assessed which exceeds Six Dollars ($6.00) or five percent (5%) of the unpaid amount, whichever is greater.

D. Prior to collecting a late fee, the seller shall give notice to the customer by first class mail to the customer's last known billing address as shown on the records of the seller of the amount of the delinquency at least ten (10) days prior to the date the fee will be imposed. The notice shall conspicuously state the place and address for making payment, the date on which the late fee will be imposed, and the amount of the late fee.

Added by Laws 1998, c. 352, § 1, eff. July 1, 1998. Amended by Laws 2016, c. 47, § 2, emerg. eff. April 12, 2016.

§11-22-108. Power to suppress gaming and gambling.

The municipal governing body may enact ordinances to restrain, prohibit, and suppress games and gambling houses, bowling alleys, pool and billiard tables, and other gambling tables. The powers granted to municipalities in this section shall not be construed to repeal any gambling law now on the statute books, but shall be cumulative only.
Laws 1977, c. 256, § 22-108, eff. July 1, 1978.

§11-22-109. Disorderly houses and public indecencies.

The municipal governing body may enact ordinances to restrain, prohibit, and suppress houses of prostitution and other disorderly houses and practices, and all kinds of public indecencies. No municipal officer shall accept or receive any hush money, or any money or valuable things, from any person or persons engaged in any such business or practice, or grant any immunity or protection against a rigid enforcement of the laws and ordinances enacted to restrain, prohibit and suppress any such business or practice.
Laws 1977, c. 256, § 22-109, eff. July 1, 1978.

§11-22-109.1. Location of adult novelty shops.

A. As used in this act:

1. "Adult novelty shop" means a commercial establishment that displays, sells, or offers for sale instruments, devices, or paraphernalia designed or marketed primarily for use to stimulate human genital organs or for use in connection with sadomasochistic practices; and

2. "Sadomasochistic practices" means flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

B. The location of an adult novelty shop shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and the location of such entities is specifically prohibited within one thousand (1,000) feet of:

1. Any building primarily and regularly used for worship services and religious activities;

2. Any public or private school;

3. Any public park or playground;

4. Any public library; or

5. Any land zoned or used for residential purposes.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, any public library or any land zoned or used for residential purposes shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance

indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of the adult novelty shop along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.
Added by Laws 1997, c. 225, § 1, eff. Nov. 1, 1997.

§11-22-110. Riots, assaults and disturbances, etc. - Firearms and fireworks.

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

B. No municipality shall regulate by order, resolution, ordinance, regulation, or other legislation prohibiting the transport of fireworks, in their unopened original packaging in a motor vehicle within the municipal limits. No municipality shall adopt or continue in effect resolutions, ordinances, or regulations prohibiting the transport of fireworks in their unopened original packaging by a motor vehicle. Local orders, resolutions, ordinances, regulations, or legislation in violation of this section are void and unenforceable.
Added by Laws 1977, c. 256, § 22-110, eff. July 1, 1978. Amended by Laws 1985, c. 28, § 1, eff. Nov. 1, 1985; Laws 2006, c. 306, § 1, eff. July 1, 2006.

§11-22-110.1. Registration of real property prohibited.

A. For purposes of promoting commerce and the equitable treatment of the citizens of this state, the registration of any real property by any municipality is declared to be a statewide concern and shall be prohibited pursuant to subsection B of this section.

B. No municipality shall enact or attempt to enforce through fees, civil fines or criminal penalties any ordinance, rule or regulation to require the registration of real property. Any ordinance, rule or regulation contrary to the provisions of this section, whether enacted prior to or after the effective date of this act, is declared null and void and unenforceable against every owner,

purchaser, assignee, lessee, mortgagee or beneficiary of any interest in the real property.

C. Nothing in this section shall prohibit a municipality from creating a list of the property owners or the designees of property owners of residential, commercial or leased real property to ensure the public safety and welfare of its citizens.

D. Nothing in this section shall prohibit a municipality from enacting and enforcing rules and regulations to require real property owners to comply with established occupancy standards as set forth by ordinance and state law.

E. Nothing in this section shall prohibit a municipality from requiring the owner of property that is the subject of any abatement process provided in this title to provide the name, physical address and telephone number of an individual to receive and respond to communications concerning the property subject to the abatement process. No future action taken by the municipality shall be rendered ineffective due to the failure of the property owner to provide the information pursuant to this subsection. The municipality shall not assess any additional charge when requiring the information.

Added by Laws 2014, c. 326, § 2. Amended by Laws 2017, c. 52, § 1, eff. Nov. 1, 2017.

§11-22-111. Cleaning and mowing of property - Summary abatement - Ordinances – Definitions - Application.

A. A municipal governing body may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title, one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary

abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

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

3. A hearing may be held by the municipal governing body to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the municipality are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the municipality. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on the property for the cleaning or mowing costs;

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

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, then within the next thirty (30) days, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to

the county treasurer except as otherwise provided for in this section. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

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

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

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

D. As used in this section:

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

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

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

c. harbors rodents or vermin,

d. gives off unpleasant or noxious odors,

e. constitutes a fire or traffic hazard, or

f. is dead or diseased.

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

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

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

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

E. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

Added by Laws 1977, c. 256, § 22-111, eff. July 1, 1978. Amended by Laws 1983, c. 48, § 1, emerg. eff. April 26, 1983; Laws 1986, c. 28, § 1, eff. Nov. 1, 1986; Laws 1988, c. 99, § 1, emerg. eff. April 1, 1988; Laws 1989, c. 5, § 1, emerg. eff. March 22, 1989; Laws 1990, c. 253, § 1, emerg. eff. May 22, 1990; Laws 1994, c. 206, § 1, emerg. eff. May 20, 1994; Laws 1998, c. 146, § 1, eff. Nov. 1, 1998; Laws

2000, c. 82, § 1, eff. Nov. 1, 2000; Laws 2006, c. 77, § 1, eff. July 1, 2006; Laws 2012, c. 136, § 1, eff. Nov. 1, 2012.

§11-22-111.1. Certification for employees enforcing cleaning and mowing provisions.

Employees of a municipality employed or otherwise assigned to enforce provisions of Section 22-111 of Title 11 of the Oklahoma Statutes shall complete certification training specifically applicable to such section as adopted and administered by the Oklahoma Code Enforcement Association, an internationally recognized model code organization, career technical education program, or an institution of higher education. The certification training shall be completed within one (1) year of employment or assignment for such enforcement.

Added by Laws 2008, c. 24, § 1, eff. Nov. 1, 2008.

NOTE: Editorially renumbered from § 111.1 of this title to provide consistency in numbering.

§11-22-112. Condemnation – Procedures – Administrative officer or body – Definitions - Nuisance – Damages or loss of property – Agricultural property.

A. A municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the following procedures:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the governing body holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication as defined in Section 1-102 of this title. The notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property;

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the municipality at the hearing, and stating that the municipality claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the municipality are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within dates fixed by the governing body. Any action to challenge the order of the municipal governing body shall be filed within thirty (30) business days from the date of the order;

4. The governing body shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this subsection. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a municipality dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder; and

5. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by

the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

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

C. For the purposes of this section:

1. "Dilapidated building" means:
    a. a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public,
    b. a structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public,
    c. a structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 22-112.1 of this title, more than three times within any twelve-month period,

d. a structure which has been boarded and secured, as defined by Section 22-112.1 of this title, for more than eighteen (18) consecutive months, or

e. a structure declared by the municipal governing body to constitute a public nuisance; and

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

D. Nothing in the provisions of this section shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

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

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

Added by Laws 1977, c. 256, § 22-112, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 42, eff. Nov. 1, 1984; Laws 1988, c. 152, § 1, eff. Nov. 1, 1988; Laws 1989, c. 5, § 2, emerg. eff. March 22, 1989; Laws 1990, c. 253, § 2, emerg. eff. May 22, 1990; Laws 1997, c. 83, § 1, eff. Nov. 1, 1997; Laws 1999, c. 343, § 2, eff. Nov. 1, 1999; Laws 2000, c. 82, § 2, eff. Nov. 1, 2000; Laws 2004, c. 314, § 1, eff. Nov. 1, 2004; Laws 2011, c. 52, § 1, eff. Nov. 1, 2011.

§11-22-112.1. Boarding and securing dilapidated building - Definitions.

A. After a building has been declared dilapidated, as provided in Section 22-112 of this title, and before the commencement of the tearing and removal of a dilapidated building, the governing body of any municipality may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the governing body of any municipality may authorize the structure to be demolished pursuant to Section 22-112 of this title.

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

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

1. Before the governing body orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in Section 22-112 of this title. At the time of mailing of notice to any property owner or mortgage holder, the

municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in Section 1-102 of this title. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of paragraph 9 of this subsection, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the municipal governing body; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder;

2. The owner of the property may give written consent to the municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives any right the owner has to a hearing by the municipal governing body;

3. If the property owner does not give written consent to such actions, a hearing may be held by the municipal governing body to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of paragraph 3 of subsection A of Section 22-111 of this title. In making such determination, the governing body shall apply the following standard: the governing body may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children.

Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building;

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

the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

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

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

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

7. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property and such fee shall be deposited to the general fund of the county. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall

continue until the costs and interest are fully paid. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien;

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

9. If a municipal governing body causes a structure within the municipal limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the municipality shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the municipal clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in paragraph 1 of this subsection. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in paragraphs 6 and 7 of this subsection;

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

11. For the purposes of this subsection:

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

b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the

roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure, and

c. "unfit for human occupancy" means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

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

Added by Laws 1984, c. 126, § 43, eff. Nov. 1, 1984. Amended by Laws 1986, c. 257, § 1, eff. Nov. 1, 1986; Laws 1988, c. 152, § 2, eff. Nov. 1, 1988; Laws 1990, c. 253, § 3, emerg. eff. May 22, 1990; Laws 1997, c. 83, § 2, eff. Nov. 1, 1997; Laws 2000, c. 82, § 3, eff. Nov. 1, 2000.

§11-22-112.2. Removal of graffiti by municipalities.

A. A municipal governing body may cause graffiti to be removed from property within the municipal limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the municipality authorizing removal of the graffiti. By giving such written consent, the owner and the tenant each waives the right to notice and a hearing by the municipality as otherwise required by this section;

2. If the consent of the property owner and the tenant, if any, to remove graffiti from the property cannot be obtained, the municipality may remove the graffiti without such consent pursuant to the procedures set forth in this section;

3. To remove graffiti from property without the consent of the property owner and the tenant, if any, at least ten (10) days' notice shall be given by mail directed to the address shown by the current year's tax rolls in the county treasurer's office. Notice to the tenant, if any, shall be given by mail directed to the property address. The notice shall order the property owner and the tenant, if any, to remove graffiti from the property and shall further state that unless such work is performed within twenty (20) days of the date of the notice the work shall be done by the municipality. At the time of mailing of notice to the property owner and the tenant, if any, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee(s). In addition, notice shall be given by posting a copy of the notice on the property at least one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary abatement of graffiti in accordance with the provisions of subsection B of this section, the notice shall state that any accumulations of

graffiti on the property occurring within one (1) year from and after the date of the notice may be summarily abated by the municipality without a hearing and further prior notice to the property owner or the tenant, if any, except by posting of notice at least one time on the property once not less than two (2) business days prior to such summary abatement;

4. A hearing may be held by the municipal governing body to determine whether the accumulation of graffiti on the property has caused the property to become detrimental or a hazard to the health, safety, or general welfare of the public and the community;

5. Upon finding that the condition of the property constitutes a detriment or hazard, and that the property, the public, and the community would be benefited by removal of such conditions, the agents of the municipality are granted the right of entry onto the property for the removal of the graffiti thereon and for performance of the necessary duties as a governmental function of the municipality; and

6. The municipality may designate by ordinance an administrative officer or administrative body to perform the functions set forth in this section. The property owner and the tenant, if any, shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by a municipal governing body to a property owner and tenant, if any, ordering graffiti to be removed from property within the municipal limits in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of graffiti on the property occurring within a one (1) year period may be summarily abated without further prior notice to the property owner or the tenant, if any. However, prior to the summary abatement by the municipality, notice thereof shall be posted at least one time on the property not less than two (2) business days prior to such summary abatement. This subsection shall not apply if the records of the county clerk show that the ownership and/or tenancy of the property was transferred after notice was given pursuant to subsection A of this section.

C. Removal of graffiti by a municipality pursuant to the provisions of this section shall be performed at the sole expense of the municipality. In removing the graffiti, the municipality shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

D. Nothing in the provisions of this section shall prevent the municipality from abating graffiti as a nuisance or otherwise

exercising its police power to protect the health, safety, or general welfare of the public.

E. The municipality and its officers, employees or agents shall not be liable for any damages or loss of property due to the removal of graffiti performed pursuant to the provisions of this section.

F. Nothing in this section shall prohibit the municipal governing body from enacting ordinances concerning the removal of graffiti that are more strict than this section.

G. For the purposes of this section:

1. "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public;

2. "Graffiti" means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fence, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, or by an authorized agent for such owner or tenant;

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

4. "Removal", "remove", or "removed", when used in relation to the eradication of graffiti means the act of taking graffiti off of, or masking the presence of graffiti on, a rock, tree, wall, bridge, fence, gate, building or other structure; and

5. "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property.

Added by Laws 1997, c. 170, § 1, eff. Nov. 1, 1997.

§11-22-112.3. Certification of employees enforcing condemnation provisions.

Employees of a municipality assigned to enforce provisions of Sections 22-112 and 22-112.1 of Title 11 of the Oklahoma Statutes shall complete certification training specifically applicable to such section as adopted and administered by the Oklahoma Code Enforcement Association, an internationally recognized model code organization, career technical education program, or an institution of higher education. The certification training shall be completed within one (1) year of employment or assignment for such enforcement.

Added by Laws 2008, c. 24, § 2, eff. Nov. 1, 2008.

NOTE: Editorially renumbered from § 112.2 of this title to provide consistency in numbering.

§11-22-112.4. Abandoned building as public nuisance – Abatement – Petition for removal – Administrative officer or body – Definitions – Appeal – Damages or loss of property.

A. An abandoned building shall constitute a public nuisance because it:

1. Is detrimental to the public health, safety or welfare of the inhabitants of and visitors to the municipality;

2. Causes increased municipal regulatory costs and increased municipal police and fire protection costs; and

3. Devalues abutting and nearby real properties.

B. A municipal governing body may abate the public nuisance caused by an abandoned building within the municipal limits in accordance with the following procedures:

1. At least ten (10) days' notice that an abandoned building is to be abated pursuant to the procedures for abatement set forth in this section shall be given to the owner of the property before the governing body holds a hearing. A copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be sent by mail to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgage holder. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, the receipt of which shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property and by publication as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is an abandoned building as defined by this section;

3. Pursuant to a determination that the building is an abandoned building, the governing body may order the agents of the municipality to pursue abatement of the public nuisance caused by the building and shall order the municipal clerk to place the building on an abandoned building list to be maintained by the clerk. At any time after such determination and order, the agents of the municipality may cause the public nuisance to be abated as authorized in this section, and such abatement may continue until such time as the building is removed from the abandoned building list in accordance with the procedures set forth in subsection C of this section;

4. Abatement of an abandoned building by the municipality may include any or all of the following:

a. any lawful municipal regulatory or municipal police and fire protection action in relation to the abandoned building or the owner of such building necessary or appropriate for the protection of inhabitants in and visitors to the municipality. Upon receipt of any necessary warrant to authorize such action, the agents of the municipality are granted the right of entry onto the property for the performance of any such action as a governmental function of the municipality,

b. the quarterly assessment against the property on which the abandoned building is located and against the owner of the abandoned building of the actual costs of any municipal regulatory action taken in relation to the abandoned building or the owner of such building as authorized above,

c. the assessment against the property on which the abandoned building is located and against the owner of the abandoned building of the actual costs of any municipal police or fire protection action taken in relation to the abandoned building or the owner of such building as authorized above, and

d. an assessment for any other actual expenses incurred by the municipality in relation to the abandoned building, including, but not limited to, the costs of notices, mailings and publications;

5. After the determination that a building is an abandoned building, and before commencement of any of the abatement actions authorized by paragraphs 3 and 4 of this subsection, the municipal clerk shall file a notice of lien with the county clerk describing the property, the findings of the governing body at the hearing, and stating that the municipality claims a lien on the property for all abatement costs and that such costs shall also constitute the personal obligation of the property owner from and after the date of filing of the notice;

6. From and after the determination that a building is an abandoned building, and continuing until such time as the building is removed from the abandoned building list in accordance with the procedures set forth in subsection C of this section, the municipal clerk shall determine the actual quarterly abatement costs for the abatement procedures authorized by this section. After such determination, the municipal clerk shall mail a statement of the actual quarterly abatement costs for the abatement procedures authorized by this section to the property owner and demand the payment of such costs by the owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address

provided for in paragraph 1 of this subsection. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipal clerk shall obtain a receipt of mailing from the postal service, the receipt of which shall indicate the date of mailing and the name and address of the mailee; and

7. When full payment is made to the municipal clerk for actual abatement costs incurred and billed in accordance with paragraph 6 of this subsection, the municipal clerk shall send the property owner and any mortgage holder by mail a receipt for such payment; but if payment attributable to the actual quarterly costs of such abatement is not made within six (6) months from the date of the mailing of the statement to the owner of such property, a lien in the actual amount of the abatement shall be filed against the abandoned building. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of lien was filed with the county clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of lien was filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any lien created pursuant to this section. Upon receiving full payment, the municipal clerk shall forward to the county clerk a notice of discharge of the lien.

C. Any owner or mortgage holder of any building determined by the governing body of the municipality to be an abandoned building pursuant to this section may petition the governing body in writing at any time after such determination for removal of such building from the abandoned building list maintained by the municipal clerk. Any such petition shall be filed with the municipal clerk. Within thirty (30) days after such petition is filed with the municipal clerk, the governing body shall hold a hearing to determine if the building is no longer an abandoned building. Upon such a determination, the governing body shall order the building removed from the abandoned building list. The municipal clerk shall comply with such order by removing the building from the abandoned building list; provided, the real property on which the abandoned building is located and the owner of such building shall remain liable for payment of any and all abatement costs incurred by the municipality prior to the determination and order by the governing body that the building should be removed from the abandoned building list. Upon full payment of any costs certified against the property, the municipal clerk shall file a release of the notice of the lien in the county clerk's office within ten (10) days after receiving such payment.

D. The governing body may designate, by ordinance, an administrative officer or administrative body of the municipality to carry out any or all of the duties of the governing body specified in this section. The property owner shall have the right of appeal to the governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing a written notice of appeal with the municipal clerk within ten (10) days after the administrative order is delivered or mailed to the owner at the address shown in the county treasurer records.

E. For purposes of this section:

1. "Abandoned building" means any building located within the municipality that is not currently occupied and has been declared unsecured or dilapidated pursuant to Section 22-112 or 22-112.1 of Title 11 of the Oklahoma Statutes and remains in such condition; and

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

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

G. The officers, employees or agents of the municipality shall not be liable for any damages or loss of property due to the abatement of the public nuisance caused by an abandoned building performed pursuant to the provisions of this section or as otherwise provided by law.

Added by Laws 2014, c. 326, § 3.

§11-22-112.5. Termination of water service when sewer or waste water service is provided by a separate public entity

A. Where water service is provided to real property by one public entity but that property receives sewer or waste water service from another public entity, and where the sewer or waste water account for the property has been found to be delinquent as determined by the policies adopted by the public entity regarding nonpayment, the governing body of the public entity providing sewer or waste water service to that property may request that the public entity providing water service terminate water service. Until the delinquency has been resolved, the governing body of the public entity providing sewer or waste water service requesting the termination of water service shall provide a proposed date for termination and notice to the public entity providing water service, and to the account holder and property owner of the subject property at least thirty (30) days prior to the proposed date for termination. The public entity providing water service may terminate water service at the subject property on the proposed date for termination or within thirty (30) days thereafter. Should the sewer or waste water delinquency be resolved during the pendency of the termination of water service, or sometime thereafter, the public entity which requested termination of water service shall provide the public

entity providing water service notice of the resolution of delinquency no later than the first business day following resolution. The public entity providing water service shall renew water service no later than the first business day following the notice. Should the sewer or waste water delinquency be resolved during the pendency of the termination of water service, or sometime thereafter, the public entity which requested termination of water service shall provide the account holder and the property owner notice of the resolution of the delinquency, upon request.

B. Each public entity desiring to utilize the termination provision authorized in subsection A of this section shall enact, in accordance to law and as required by this act, notice and hearing procedures to ensure account holders and property owners receive adequate notice and opportunity for hearing prior to commencement of the procedures authorized in subsection A of this section.
Added by Laws 2016, c. 98, § 1, eff. Nov. 1, 2016.

§11-22-113. Fire hazards and building location restrictions.

The municipal governing body may regulate the construction or suppression, and cleaning of any apparatus, fixtures, or equipment used in any building, manufactory, or business which may cause or promote fires, may prescribe limits within which dangerous or hazardous businesses may be carried on, and may adopt fire prevention codes and regulations. The governing body may impose penalties for the violation of such ordinances and may remove or abate any buildings constructed or located in violation of its ordinances.
Amended by Laws 1984, c. 126, § 44, eff. Nov. 1, 1984.

§11-22-114. Entry upon private property for making surveys, soundings, examination or terminating public utility services - Reimbursement for damages.

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

unable to be given notice by certified mail, notice shall be given by publication.

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

Amended by Laws 1984, c. 126, § 45, eff. Nov. 1, 1984.

§11-22-115. Animals running at large - Regulation and taxation.

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

Laws 1977, c. 256, § 22-115, eff. July 1, 1978.

§11-22-115.1. Commercial pet breeder - Restriction of location near schools or day care facilities.

A. No commercial pet breeder shall be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000). Provided, this prohibition shall not apply to a commercial pet breeder that was lawfully in operation and in full compliance with all licensing, permitting, and zoning requirements applicable to the commercial pet breeder prior to the effective date of this act.

B. No public officer or employee shall issue any type of license, permit, approval or consent for a commercial pet breeder to be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000).

C. Applications for a commercial pet breeder license or for any governmental permit, approval or consent needed to authorize the lawful operation of a commercial pet breeder that are pending on the

effective date of this act shall be subject to the prohibitions set forth in subsections A and B of this section.

D. The provisions of subsections A and B of this section may be enforced by any public officer within whose jurisdiction a noncompliant commercial pet breeder is located or by any other person aggrieved in any way by noncompliance with the provisions. Enforcement action may include a civil suit for an injunction filed in the district court in the county where a noncompliant commercial pet breeder is located.

E. Any municipality is hereby authorized to enact an ordinance consistent with the provisions of this section and to enforce the ordinance by prosecution of violations in the municipal court, as provided by law.

F. For the purposes of this section, the term "commercial pet breeder" shall have the same meaning as given in Section 30.2 of Title 4 of the Oklahoma Statutes.

Added by Laws 2008, c. 433, § 1, emerg. eff. June 4, 2008. Amended by Laws 2015, c. 44, § 1, eff. Nov. 1, 2015.

§11-22-116. Jurisdiction over real property and navigable streams.

A. Except as provided for in subsection B of this section, the municipality shall have jurisdiction over any real property within or without its corporate limits belonging to the municipality.

B. A municipality with a population of more than three hundred fifty thousand (350,000) persons, according to the most recent Federal Decennial Census, shall have jurisdiction over any real property within its corporate limits belonging to the municipality. The municipality shall have the authority to enact ordinances regulating real property belonging to the municipality that is outside the corporate limits of the municipality. Municipal property outside the corporate limits of the municipality shall be subject to state or municipal law and any violation of state or municipal law shall be prosecuted in the district court of the county or the municipal court of the local city where the violation occurred. Unless otherwise provided for by law, the municipality may regulate the banks, shores, and wharves of navigable streams within the corporate limits.

Added by Laws 1977, c. 256, § 22-116, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 46, eff. Nov. 1, 1984; Laws 2003, c. 147, § 1, eff. Nov. 1, 2003.

§11-22-117. Traffic ordinances and regulations — Designation of school zone speed limits.

A. The municipal governing body may establish ordinances and regulations governing the operation of motor vehicles and traffic upon the roads and streets within the municipality in the manner provided by, and not inconsistent with, state law. An ordinance or

regulation shall be consistent with state law if it is reasonably related to traffic safety or control or flow of traffic and does not contradict a specific provision of state law. The governing body may also regulate and prevent racing and fast driving, and all games, practices or amusements likely to result in damage to any person or property, in the streets, highways, alleys, bridges, sidewalks or other places in the municipality, and riding or driving over or upon the sidewalks of the municipality.

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

1. On roadways of two driving lanes, only the end zone signing may be on either side of the roadway or in the center of the roadway; and

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

Added by Laws 1977, c. 256, § 22-117, eff. July 1, 1978. Amended by Laws 1978, c. 90, § 1, eff. Oct. 1, 1978; Laws 2006, c. 132, § 1, eff. Nov. 1, 2006.

§11-22-117.1. Possession of security verification form may be required for certain vehicles.

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

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

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

Added by Laws 1982, c. 355, § 10, operative July 1, 1983. Amended by Laws 1984, c. 181, § 1, eff. Nov. 1, 1984.

§11-22-118. Regulation of taxicabs - Specific requirements.

The municipal governing body is vested with full police powers, for the purpose of preserving public health, safety and welfare, over the operation, regulation and control of taxicabs within the limits

of the municipality. The municipal governing body may prescribe regulations for the operation of taxicabs, which regulations may include, and shall be limited to the following specific powers and subjects:

1. Requirement of minimum insurance, bond or other indemnity for public liability upon each taxicab; and if other than standard insurance be permitted, requirement and specifications of terms and conditions under which such other indemnity shall be accumulated, held, maintained, managed, and disposed of to secure persons in whose favor any liability shall arise out of the operation of taxicabs;

2. Requirement of minimum standards of mechanical condition and efficiency of any vehicle used as a taxicab, together with the power to require inspections to insure compliance therewith;

3. Restriction of the loading of taxicabs to specified zones or localities; including the power to prohibit and punish "cruising" and the making of such other rules governing the manner of operation of taxicabs as the public safety may require;

4. Determination, establishing, and enforcement of maximum and/or minimum rates and charges to be made by taxicabs for the transportation of passengers; including, but not requiring, the establishment of zones as the basis of such rates, or the requirement of taximeters as the basis of calculating such charges;

5. Requirement of municipal license for the operation of each taxicab; together with the right to levy and exact an annual fee therefor, and the right to revoke, cancel and thereafter refuse to reissue such license for failure to comply with or for infractions of regulations promulgated pursuant to this section. The granting of any license may be made dependent upon the holding of a certificate of convenience and necessity issued by the municipality, if such certificates are provided as authorized by paragraph 6 of this section; and

6. Requirement for the holding of a certificate of convenience and necessity as a condition precedent to the issuance and holding of a municipal license for the operation of a taxicab; including the power to issue, deny, suspend and revoke such certificates.

Added by Laws 1977, c. 256, § 22-118, eff. July 1, 1978.

§11-22-119. Regulation of railway and freight operations within municipal limits.

The municipal governing body may regulate levees, depots, depot grounds, and places of storing freight and goods, and provide for the passage of railways through the streets and public grounds of the municipality. The governing body may also regulate the crossing of railway tracks and the running of railway engines, cars and trucks within the limits of the municipality, and to govern the speed thereof, and to make provisions, rules and restrictions to prevent

accidents at crossings and on the tracks of railways and to prevent fires from engines.
Laws 1977, c. 256, § 22-119, eff. July 1, 1978.

§11-22-120. Public health, hospitals, quarantine, and environmental hazards.

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

B. If the Department of Environmental Quality notifies a municipality in writing that certain vacant property presents an extraordinary environmental hazard to public health and safety, the municipal governing body is authorized to enact special ordinances restricting occupancy and use of the vacant buildings, vacant structures or land as necessary to protect against the extraordinary environmental hazard. This includes, but is not limited to, the authority to restrict occupancy or use by classes of persons who may be especially vulnerable to the environmental hazard. The municipal governing body is further authorized to restrict occupancy or use, by children or other especially vulnerable classes of persons, of property in areas or at locations with contamination by lead or other hazardous substances to such a degree that normal health and welfare of members of the class are at significant risk.
Added by Laws 1977, c. 256, § 22-120, eff. July 1, 1978. Amended by Laws 2001, c. 352, § 1, emerg. eff. June 1, 2001.

§11-22-121. Nuisances.

The municipal governing body may declare what shall constitute a nuisance, and provide for the prevention, removal and abatement of nuisances.
Added by Laws 1977, c. 256, § 22-121, eff. July 1, 1978.

§11-22-122. Trees.

The municipal governing body may enact ordinances for the purpose of regulating, planting and maintaining trees in the streets, avenues or public grounds of the municipality. Planting and maintaining trees may also be petitioned for in the manner provided for petitioning sidewalks; and the governing body may make assessments and collect taxes in order to pay for planting and maintaining trees in the manner provided for sidewalk assessments and taxes.
Laws 1977, c. 256, § 22-122, eff. July 1, 1978.

§11-22-123. Vagrancy.

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

Laws 1977, c. 256, § 22-123, eff. July 1, 1978.

§11-22-124. Commercial development projects, market houses and marketplaces - Municipal buildings.

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

Amended by Laws 1984, c. 126, § 47, eff. Nov. 1, 1984.

§11-22-125. Gifts to institutions in state system of higher education or to school districts.

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

Laws 1977, c. 256, § 22-125, eff. July 1, 1978; Laws 1991, c. 313, § 3, eff. Sept. 1, 1991.

§11-22-126. Participation in federal programs.

The municipal governing body may receive funds for and participate in any federal program, and may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation. In doing so, a municipality may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, as agent of the federal government, notwithstanding any provisions of state law.

Laws 1977, c. 256, § 22-126, eff. July 1, 1978.

§11-22-127. Establishing residency requirements.

The municipal governing body by ordinance may designate which appointed officers and employees shall reside within the municipality; but police officers, firefighters and other municipal employees need not be actual residents of the municipality where they are employed in municipalities of five thousand (5,000) population or more, according to the latest federal census.
Laws 1977, c. 256, § 22-127, eff. July 1, 1978.

§11-22-128. Authority for public improvements - Borrowing money - Bond issues.

The governing body of any municipality may provide for making any and all improvements of a general nature in the municipality and may from time to time borrow money and issue bonds for the purpose of paying for such improvements. No such money shall be borrowed or bonds issued until the governing body is instructed to do so by a vote of at least three-fifths of the registered voters voting on the question at any election held in the municipality, unless otherwise provided by the Constitution and laws of Oklahoma. If the purpose of the bonds includes paying for conservation easements, the question voted on by the voters of the municipality issuing such bonds shall reflect such purpose, but need not specify the legal description or location of the property to be affected by such easements, unless such legal description or location is known prior to the election. Any conservation easements executed pursuant to this section shall not restrict or prohibit any existing recreational uses permitted by the landowner, including, but not limited to, hunting and fishing. A conservation easement shall not be executed in any location that will restrict or in any way modify an existing use, easement, or zoning ordinance that relates to military installations of this state and/or to any zoning ordinances adopted pursuant to Section 43-101.1 of this title. If a municipality fails to negotiate a purchase of a conservation easement from a landowner, the use of eminent domain by a municipality shall be prohibited to secure such easement. Bonds issued under this section shall be payable not more than twenty-five (25) years from the date of their issue, with interest thereon at a rate not exceeding a maximum rate established by law. The governing body shall provide for taxes to pay the bonds at their maturity, and their interest coupons as they respectively become due.
Added by Laws 1977, c. 256, § 22-128, eff. July 1, 1978. Amended by Laws 1983, c. 170, § 13, eff. July 1, 1983; Laws 2006, c. 307, § 1, eff. Nov. 1, 2006.

§11-22-129. Tax warrants against lots for special assessments or for abatement of public nuisance.

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

B. Where a municipality has abated any public nuisance in accordance with state law or municipal ordinance, the governing body may issue a tax warrant against each separate lot that was actually abated, in the manner provided by law, which shall be a valid lien on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality.

Added by Laws 1977, c. 256, § 22-129, eff. July 1, 1978. Amended by Laws 2003, c. 454, § 1, emerg. eff. June 6, 2003.

§11-22-130. Reassessments for void or illegal assessments.

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

Laws 1977, c. 256, § 22-130, eff. July 1, 1978.

§11-22-131. Municipal records - Destruction, sale or disposition after certain time limitations.

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

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

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

3. Five (5) years: successful and unsuccessful bids for the purchase or furnishing of equipment, material and improvements; inspection records except as provided for in paragraph 2 of this

section; claims that have been denied; license applications; bonds; special, primary and general election payrolls; election tabulations and returns; withholding statements; garnishment records; traffic tickets and receipts; bond receipts and fine receipts; information and complaints; court dockets; paid general obligation and revenue bonds; paid street improvement, sewer and sidewalk district bonds; warrants; claims; checks; vouchers; purchase orders; payrolls;

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

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

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

B. Time limits for the destruction, sale, or other disposition of municipal papers, documents and records which are not mentioned in subsection A of this section may be determined and set by ordinance or resolution of the municipal governing body.

Added by Laws 1977, c. 256, § 22-131, eff. July 1, 1978. Amended by Laws 1982, c. 166, § 1; Laws 1987, c. 173, § 3, eff. Nov. 1, 1987; Laws 1990, c. 83, § 1, eff. Sept. 1, 1990; Laws 1996, c. 83, § 1, eff. Nov. 1, 1996.

§11-22-132. Authority to have records photographed or reproduced on film or stored on optical disk - Original record - Storage.

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

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

C. Whenever photostatic copies, photographs, microphotographs, reproductions on films or optical disks shall be placed in conveniently accessible files and provisions made for preserving, examining and using same, the head of any municipal department, commission, bureau or board may certify those facts to the municipal governing body. Following such certification, the governing body may, by ordinance or resolution, authorize the disposal, archival storage or destruction of the original records and papers before the expiration of the retention period established pursuant to Section 22-131 of this title.
Added by Laws 1977, c. 256, § 22-132, eff. July 1, 1978. Amended by Laws 1990, c. 50, § 1, eff. Sept. 1, 1990; Laws 1998, c. 234, § 1, eff. Nov. 1, 1998.

§11-22-132.1. Municipal Records - Maintenance and protection - Availability.

Any officer or employee of a municipality having custody of records or other documents of the municipality shall keep and maintain such records in a manner and at a location prescribed by the governing body. Such records shall be available for use by officers and employees of the municipality as the governing body shall direct. The governing body shall establish policies and procedures to preserve and protect the records of the municipality consistent with other provisions of law providing for the confidentiality of such records where appropriate and the accessibility of such records for inspection by the public.
Added Laws 1989, c. 255, § 2, emerg. eff. May 19, 1989.

§11-22-133. Contesting reasonableness of oil and gas drilling fee.

Any person, firm or corporation may contest the reasonableness of any fee imposed pursuant to the provisions of Section 52 of Title 17 of the Oklahoma Statutes, for the issuance of a permit for the drilling and operation of an oil and gas well or the regulation thereof, by filing a petition in the district court of the county where the governing body of such incorporated city or town is located. The court, upon hearing all the facts and circumstances relating to the imposition of the fee, shall determine the reasonableness of such fee. The court may award attorneys' fees and costs to the prevailing party.
Added by Laws 1986, c. 250, § 14, emerg. eff. June 13, 1986.

§11-22-134. Purchasing or accounts payable - Approval by electronic process.

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

Added by Laws 1990, c. 176, § 1, eff. Sept. 1, 1990.

§11-22-135. National disaster leave.

A. The governing body of a municipality may grant leave with pay not to exceed fifteen (15) working days to a municipal employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;

2. A relative or household member of the employee suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the domicile of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee; and

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune.

C. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than six (6) months after the date of a presidentially declared national disaster.

D. Annual leave, sick leave, or compensatory time which was charged to a municipal employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the governing body. A municipal employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.

E. A governing body of a municipality may amend an existing leave sharing program or establish a leave sharing program to allow municipal employees to share sick or annual leave with municipal employees who are eligible for leave pursuant to subsection A of this section. The disaster-related leave sharing plan shall be subject to the following conditions:

1. An employee eligible for disaster-related leave may receive up to fifteen (15) days donated leave;

2. The donated leave must be used for disaster-related injuries or matters;

3. The eligible employee shall not be required to take or exhaust any of the employee's regular sick, personal, or emergency leave in order to receive donated leave;

4. Donated leave may be used to reinstate regular emergency, sick, or personal leave an employee used after May 1, 1999, for disaster-related injuries or matters;

5. An eligible employee who was required to take leave without pay for disaster-related injuries or matters may be compensated for up to fifteen (15) days if leave is donated to cover the leave without pay; and

6. The municipality may require documentation to support a request to use donated leave pursuant to this section.

Added by Laws 1999, c. 306, § 4, eff. July 1, 1999.

§11-22-136. Intangible property held for owner or apparent owner by municipality or municipal public trust - Abandonment - Notice - Definitions.

A. Except as provided by other provisions of Title 11 of the Oklahoma Statutes governing disposition of certain specific types of intangible property, any intangible property held for the owner or apparent owner by a municipality or a municipal public trust that remains unclaimed by the owner or apparent owner for one (1) year or more after becoming payable or distributable is presumed abandoned and shall be disposed of as provided by subsection B of this section.

B. Intangible property presumed abandoned pursuant to the provisions of subsection A of this section shall be disposed of by the municipality or municipal public trust as follows:

1. a. The municipality or municipal public trust shall mail written notice to the owner or apparent owner at his or her last-known address stating that the intangible property shall be paid over to the municipality or municipal public trust unless the owner or apparent owner files a claim therefor with the clerk of the municipality or with the secretary of the municipal public trust, as applicable, within two (2) years of the date of the notice.

   b. If the address of the owner or apparent owner is unknown, or the mailed notice required by subparagraph a of this paragraph is returned as undeliverable, the municipality or municipal public trust shall publish such notice two (2) times in a newspaper of general circulation within the county where the principal offices of the municipality or municipal public trust are located; and

2. If the intangible property is not claimed by the owner or apparent owner within two (2) years of the latest date of the mailed or published notice, as provided in paragraph 1 of this subsection, then the claim of such owner or apparent owner shall be extinguished and the property shall be disposed of as may be determined and

directed by the municipal governing body or by the trustees of the public trust, as applicable.

C. As used in this section:

1. "Apparent owner" means the person whose name appears on the records of the municipality or municipal public trust as the person entitled to intangible property held, issued, or owning by the municipality or municipal public trust;

2. "Intangible property" means money, warrants, checks, drafts, deposits, interest, dividends, income, credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, unidentified remittances and other similar personal property;

3. "Last-known address" means a description of the location of the owner or apparent owner sufficient for the purpose of the delivery of mail;

4. "Municipal public trust" means any public trust of which one or more municipalities are the sole beneficiary or beneficiaries; and

5. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this act, or his or her legal representative. When used in this section, the term "owner" shall encompass both a single owner or multiple owners.

Added by Laws 2002, c. 119, § 1, eff. Nov. 1, 2002.

§11-22-137. Denial of excess leave due to extraordinary circumstances - Compensation.

If a municipal employee whose job duties include providing fire protection services or law enforcement services is unable to use excess leave in the time frame allowed by the municipality because the employee's request for leave is denied by the municipality and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used.

Added by Laws 2006, c. 230, § 1, eff. July 1, 2006.

§11-22-138. Municipal collection agency contracts.

A. The governing body of a municipality may enter into a contract with a collection agency for the provision of collection services for one or more of the following items:

1. Debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the municipality, as applicable; or

2. Court penalties, costs, fines and fees in cases in municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court.

B. A governing body of a municipality that enters into a contract with a collection agency pursuant to this section may authorize the addition of a collection fee in an amount not to exceed thirty-five percent (35%) on each item described in subsection A of this section that has been referred by the municipality to the collection agency for collection. If a municipality enters into such contract with a collection agency and authorizes the collection fee, the court shall order defendants to reimburse the fee arising pursuant to paragraph 2 of subsection A of this section and such court-ordered fee may be collected as provided by law for the collection of any other civil debt or criminal action.
Added by Laws 2009, c. 258, § 1, emerg. eff. May 22, 2009.

§11-22-139. Designating personnel to attend armed security guard training program or reserve peace officer certification program.

A. The city council or board of trustees for a city or municipality may, through a majority vote of the council or board, designate city or municipality personnel who have been issued a handgun license pursuant to the Oklahoma Self-Defense Act to attend an armed security guard training program, as provided for in Section 1750.5 of Title 59 of the Oklahoma Statutes, or a reserve peace officer certification program, as provided for in Section 3311 of Title 70 of the Oklahoma Statutes, provided and developed by the Council on Law Enforcement Education and Training (CLEET). Nothing in this section shall be construed to prohibit or limit the city council or board of trustees of a city or municipality from requiring ongoing education and training.

B. Participation in either the armed security guard training program or the reserve peace officer certification program shall be voluntary and shall not in any way be considered a requirement for continued employment with the city or municipality. The city council or board of trustees of a city or municipality shall have the final authority to determine and designate personnel who will be authorized to obtain and use an armed security guard license or reserve peace officer certification in conjunction with their employment as city or municipality personnel.

C. The city council or board of trustees of a city or municipality that authorizes personnel to participate in either the armed security guard program or the reserve peace officer program may pay all necessary training, meal and lodging expenses associated with the training.

D. When carrying a firearm pursuant to this act, the person shall at all times carry the firearm on his or her person or the firearm shall be stored in a locked and secure location.

E. Any city or municipality personnel who have successfully completed either training and while acting in a reasonable and prudent manner shall be immune from civil and criminal liability for any injury resulting from the carrying of a handgun onto city or municipality property as provided in this act. Any municipality, city council, board of trustees or participating local law enforcement agency shall be immune from civil and criminal liability for any injury resulting from any act committed by the city or municipality personnel who are designated to carry a concealed handgun on public city or municipality property pursuant to the provisions of this act.

F. In order to carry out the provisions of this section, the city council or board of trustees of a city or municipality is authorized to enter into a memorandum of understanding with local law enforcement entities.

Added by Laws 2019, c. 355, § 1, eff. Nov. 1, 2019.

§11-22-150. Short title.

Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Municipal Utility Revenue Bond Act".

Added by Laws 1992, c. 211, § 1, eff. July 1, 1992.

§11-22-151. Purpose and construction of act.

The Oklahoma Municipal Utility Revenue Bond Act shall serve to implement and execute Section 27B of Article X of the Oklahoma Constitution, and nothing in the Oklahoma Municipal Utility Revenue Bond Act shall be construed in a manner contrary to or inconsistent with the provisions of said constitutional provision.

Added by Laws 1992, c. 211, § 2, eff. July 1, 1992.

§11-22-152. Definitions.

For purposes of the Oklahoma Municipal Utility Revenue Bond Act and the implementation of Section 27B of Article X of the Oklahoma Constitution:

1. "Affirmative vote of at least three-fourths (3/4) of all members of such governing body" shall mean an affirmative vote by persons comprising not less than three-fourths (3/4) of the total number of members provided by law, municipal ordinance or charter as constituting the governing body of said municipality;

2. "Bond counsel" shall mean an attorney or firm of attorneys qualified and experienced in public finance transactions, and who renders an opinion as to the validity and enforceability of the obligations issued pursuant to the Oklahoma Municipal Utility Revenue Bond Act;

3. "Financial advisor" shall mean a person or firm qualified and experienced in public finance transactions, and who renders advice and counsel to the municipality regarding fiscal and marketing

aspects pertaining to the obligations issued pursuant to the Oklahoma Municipal Utility Revenue Bond Act. Provided, any such financial advisor shall not be permitted to bid on, underwrite, purchase or take part in the marketing of the obligations nor have any other pecuniary interest therein, other than the fee negotiated with the municipality for the services of such financial advisor;

4. "Improve" means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, purchase, alter or otherwise perform any work which provides a new facility, or enhances, extends or restores the value or usefulness of an existing facility;

5. "Improvement" means any type of improvement made by authority of the Oklahoma Municipal Utility Revenue Bond Act and includes reimprovement of any prior improvement made pursuant to the provisions of this or any other applicable act;

6. "Municipality" shall mean any city or town duly incorporated and validly existing pursuant to the laws of Oklahoma;

7. "Obligations" shall mean collectively, bonds, notes or other evidences of indebtedness, or any of them, issued by a municipality pursuant to Section 27B of Article X of the Oklahoma Constitution and the provisions of the Oklahoma Municipal Utility Revenue Bond Act, and may include refunding obligations;

8. "Public trust" shall mean an Oklahoma public trust created pursuant to and existing in accordance with Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes and which has the municipality as a beneficiary; provided, for purposes of the Oklahoma Municipal Utility Revenue Bond Act, "public trust" shall not include a trust created for industrial purposes; and

9. "Qualified voters" or "voters" shall mean the voters of a municipality duly qualified to vote in a special municipal election on the issuance of bonds of the municipality or on the question of making improvements to public utilities, under the laws, ordinances and charter provisions applicable at the time such election is held. As used in the Oklahoma Municipal Utility Revenue Bond Act, the singular shall include the plural, and unless indicated herein, defined words shall have the same meaning whether or not capitalized. Added by Laws 1992, c. 211, § 3, eff. July 1, 1992.

§11-22-153. Authority to issue certain revenue bonds and obligations - Limitations.

Any municipality may issue its obligations in the manner set out in the Oklahoma Municipal Utility Revenue Bond Act in order to finance, or to refinance, all or a part of the cost of the acquisition, purchase or construction of, or the making of improvements to any public utility owned or to be owned exclusively by said municipality, and said obligations shall be payable from and secured by the revenues resulting from the operation of the

municipality's revenue-producing public utilities or any part thereof. Provided, nothing herein shall authorize or be construed to authorize a municipality to create a lien or mortgage on, or a security interest in or with respect to such public utility or utilities to secure said obligations. The obligations, when issued and delivered, shall state on the face thereof that the revenue indebtedness or contractual obligations created thereby are limited obligations of the municipality payable from and secured by a lien and charge on the revenues of funds pledged for their payment by the governing body of the municipality and shall not constitute a general indebtedness of the municipality, nor shall it invoke or require the imposition of the general taxing power of such municipality.
Added by Laws 1992, c. 211, § 4, eff. July 1, 1992.

§11-22-154. Additional sources of security for utility revenue obligations.

Nothing in the Oklahoma Municipal Utility Revenue Bond Act shall prevent a municipality from dedicating sales taxes or other municipal taxes as an additional source of payment and security for its utility revenue obligations, provided that the dedication of such tax revenue is approved by a majority of municipal voters voting at an election held for that purpose, in the manner set out in Section 2701 of Title 68 of the Oklahoma Statutes and other applicable laws, on a ballot question separate from the question of the issuance of revenue obligations. Further, nothing in the Oklahoma Municipal Utility Revenue Bond Act shall prevent a municipality from purchasing a policy of municipal bond insurance, securing a rating on the creditworthiness of the obligations, obtaining a letter of credit and other such credit enhancement product generally utilized in the public finance industry to further enhance and secure the obligations, provided, that at the time of the securing of such credit enhancement it reasonably appears to the governing body of the municipality that such credit enhancement shall result in a reduction in the amount of interest to be paid by the municipality over the life of the obligations, taking into account the cost of such credit enhancement. The dedication of such municipal taxes or the providing of credit enhancement for the obligations shall be at the sound discretion of the governing body of the municipality.
Added by Laws 1992, c. 211, § 5, eff. July 1, 1992.

§11-22-155. Submission of question of issuance of revenue obligations to finance acquisition, purchase or construction of public utility to voters.

Prior to and as a condition precedent to issuing revenue obligations under the Oklahoma Municipal Utility Revenue Bond Act, the governing body of a municipality shall submit the question of issuance of revenue obligations to finance the acquisition, purchase

or construction of a public utility or combination of public utilities to qualified voters of the municipality at an election if:

1. The type or kind of public utility or utilities to be financed have not heretofore been owned or operated by the municipality or a public trust having the municipality as its beneficiary; or

2. The question of the acquisition, construction or purchase of the public utility or combination of utilities at issue has not been previously approved by a lawful majority of qualified voters of the municipality voting at an election held within ten (10) years of the date of the election.

Added by Laws 1992, c. 211, § 6, eff. July 1, 1992.

§11-22-156. Submission of question of issuance of revenue obligations to finance improvement of public utility to voters.

Prior to and as a condition precedent to issuing revenue obligations under the Oklahoma Municipal Utility Revenue Bond Act, the governing body of a municipality shall submit the question of issuance of revenue obligations to finance improvements to a public utility or combination of public utilities if:

1. The improvements are with respect to a public utility or utilities owned by the municipality or by a public trust having the municipality as its beneficiary at the time of the election; and

2. The original acquisition, purchase or construction of the public utility or utilities on which improvements are to be made was not approved by a lawful majority of qualified voters of the municipality voting at an election for that purpose; or

3. The original acquisition, purchase or construction of the public utility or utilities on which improvements are to be made was not accomplished and financed by a public trust of which the municipality is a beneficiary.

Added by Laws 1992, c. 211, § 7, eff. July 1, 1992.

§11-22-157. Approval issuance, sale and delivery of revenue obligations.

A. Subject to the provisions of Sections 6 and 7 of this act, upon the affirmative vote of at least three-fourths (3/4) of all the members of the governing body, a municipality may borrow money or issue obligations to finance or refinance acquisition, construction or purchase of or the making of improvements to a public utility or utilities.

B. Obligations issued and sold pursuant to the provisions of the Oklahoma Municipal Utility Revenue Bond Act shall be in such principal amounts and shall mature at such time as determined by the municipal governing body, and shall bear interest at such annual rate or rates as determined by the governing board of the municipality,

provided the rate of interest on the obligations or any particular maturity thereof, shall not exceed fourteen percent (14%) per annum.

C. Evidence of the issuance, sale and delivery of revenue obligations under the Oklahoma Municipal Utility Revenue Bond Act shall be provided by delivering (1) to the Secretary of State a preliminary offering document and notice of sale at least ten (10) business days prior to the date of sale thereof, and (2) to the Secretary of State and the Oklahoma Securities Commission a final offering document within fifteen (15) business days after the delivery thereof.

D. In the proceedings leading to the approval, issuance, sale and delivery of revenue obligations under the Oklahoma Municipal Utility Revenue Bond Act, a private attorney or attorneys acting as bond counsel and in other necessary capacities may be employed at a fee to be negotiated by the municipality and such attorneys; and the fees and expenses of such counsel may, at the option of the governing body of the municipality, be paid from the proceeds of the obligations or from other available sources.

E. The governing body of the municipality may also, at its option, employ a financial advisor in connection with the issuance and sale of the obligations at a fee to be negotiated by the governing body and the financial advisor. Fees and expenses of the financial advisor, if any are incurred, may be paid from the proceeds of the obligations or from other available sources.

F. The obligations issued pursuant to the Oklahoma Municipal Utility Revenue Bond Act shall be sold at competitive bid, to the bidder bidding the lowest net interest cost on the obligations or the lowest true interest cost as the governing body shall direct. Notice of the sale of the obligations shall be published at least ten (10) days prior to the sale thereof, and such notice by publication shall include publication once a week for two (2) consecutive weeks in a legally qualified newspaper of general circulation in the municipality, provided that the date specified in the notice for sale of the obligations shall not be less than ten (10) days after the first publication thereof. The notice of sale shall state that the municipality reserves the right to reject any and all bids. Provided, however, competitive bidding may be waived upon an affirmative vote of the governing body. The governing body thereupon may negotiate for the private sale of the obligations to an underwriter or other purchaser or purchasers if it has received the written opinion of bond counsel that such negotiated sale is in accordance with the terms and provisions of the Oklahoma Municipal Utility Revenue Bond Act, and contravenes no other provisions of applicable law.

G. The obligations may, at the election of the governing body, be sold at a discount; provided that no obligations shall be sold for less than ninety-six percent (96%) of par value until the governing

body has received from the underwriter or financial advisor, or in the absence of an underwriter or financial advisor, the initial purchaser of such bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par. Such estimates shall be considered a public record. In no event shall bonds be sold for less than sixty-five percent (65%) of par value. Said net interest cost or true interest cost shall include and take into consideration any discount or premium bid on the obligations.

H. It shall be a further condition to the issuance and sale of revenue obligations hereunder that the municipality establish and maintain for the particular utility or utilities providing revenues to repay the obligations a separate system of accounting for such revenues in order that the governing body of the municipality may accurately and reliably determine from year to year the sufficiency of rates, charges and amounts of revenues derived from such utilities and available to pay debt service and other costs related to the obligations. Such enterprise accounts shall be clearly identified in the annual audits of the municipality.

Added by Laws 1992, c. 211, § 8, eff. July 1, 1992.

§11-22-158. General obligation bonds not authorized without vote of citizens.

Nothing in this act shall authorize general obligation bonds without a vote of the citizens of the municipality.

Added by Laws 1992, c. 211, § 9, eff. July 1, 1992.

§11-22-159. Municipal support of public school systems.

Municipalities may support any public school system located in whole or in part within the corporate limits of the municipality or any public school system located outside and completely surrounded by the corporate limits of the municipality, including without limitation by the expenditure of municipal revenues for construction or improvement of public school facilities. In furtherance of municipal support for any public school system, as authorized by this section, the municipal governing body may take all actions necessary to effectuate such support.

Added by Laws 1999, c. 217, § 5, eff. Nov. 1, 1999. Amended by Laws 2010, c. 457, § 8.

§11-22-161. Short title.

This act shall be known and may be cited as the "Municipal Motor Vehicle Racing Act".

Added by Laws 2011, c. 19, § 1.

§11-22-162. Definitions.

For the purposes of this act:

1. "Racing event" means a motor vehicle race which is sanctioned by a nationally or internationally recognized racing organization and includes the preparations, practices, and qualifications for the race;

2. “Municipality” means any municipality in this state with a population exceeding three hundred thousand (300,000) according to the most recent Federal Decennial Census;

3. “Public trust” means a public trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes whose sole beneficiary is the municipality;

4. “Racing event area” means all public areas, including, without limitation, public highways, streets, alleys, sidewalks, public parking areas, lots, garages, public buildings, and public parks within the jurisdiction of the municipality that are the subject of any issued permit; and

5. “Motor vehicle” means a motorized vehicle designed to be driven on pavement such as streets or highways.

Added by Laws 2011, c. 19, § 2.

§11-22-163. Racing event permit.

A. A municipality or public trust may provide for the issuance of a permit to conduct a racing event on or within a racing event area located within the limits of the municipality. No person may conduct a racing event on or within a racing event area located in a municipality unless a permit has been issued which runs for the same time period as any contract for conducting the race.

B. Prior to the issuance of a permit under this act, the municipality shall determine that:

1. The applicant has adequate insurance to pay any damages incurred because of loss of or injury to any person or property;

2. The applicant has demonstrated experience in conducting a racing event on a highway or street or in a park;

3. Adequate security and necessary facilities will be provided during the racing event, and

4. The applicant has demonstrated the ability to protect the health, safety, and welfare of the citizens of the municipality and those persons attending the racing event.

C. A municipality may charge a reasonable fee for the issuance of a permit pursuant to this act.

D. A person who is issued a permit pursuant to this act may do all of the following for the purposes of a racing event conducted pursuant to this act:

1. Limit access to the racing event area, including, without limitation, any racing event area from which the racing event may be viewed;

2. Provide for viewing areas and pit areas or any other area on or within the racing event area necessary to the conduction of the racing event;

3. Charge admission fees to persons viewing the race or entering the racing event area; and

4. Take any other action reasonably necessary for the purposes of a racing event pursuant to this section.

E. A person who is issued a permit pursuant to this act shall:

1. Reasonably protect private property rights;

2. Not prevent access to governmental facilities; and

3. Provide for the restoration of the racing event area, including all public highways, streets, alleys, sidewalks, parking areas, parking lots, garages, public buildings and public parks to a substantially similar condition as existed before the racing event so that the racing event areas are suitable for normal use. The restoration of any asphalt or paving shall occur after the expiration of the permit or, if a race does not occur, within twenty-four (24) months of the running of the previous race.

F. With respect to any racing event held pursuant to this act, a municipality may:

1. Provide for the temporary closing or obstructing of the racing event areas located within the municipality;

2. Reroute pedestrian and vehicular traffic; and

3. Waive ordinances and traffic regulations, including ordinances and regulations providing for speed limits and traffic control devices.

G. A municipality that issues a permit pursuant to this act shall not be liable for any damages that may result from the racing event because of loss of or injury to any person or property. After a permit is issued, the state or county shall not be liable for any damages that may result from the racing event because of loss of or injury to any person or property. If a municipality, a county, or the state is insured against liability for damages for any negligent or wrongful act, omission, or occurrence resulting from a racing event, the provisions of this subsection do not apply to the extent of such coverage provided by the insurance policy.

H. A racing event held pursuant to this act and the actions of the municipality or the permit holder taken pursuant to this act shall not be considered or found to be a public or private nuisance.

I. A racing event held pursuant to this act and any action taken by a municipality or a permit holder pursuant to this section shall be considered as being for public purposes, including the promotion of commerce and tourism, and for the benefit of the citizens of the municipality and the state.

J. A permit issued pursuant to this act shall not be construed in any way to restrict the use of private property.

Added by Laws 2011, c. 19, § 3.

§11-23-101. Municipality to defend municipal employees in certain legal actions.

A. Unless otherwise provided for in the Governmental Tort Claims Act, if an action is brought against a municipal employee in any civil action or special proceeding in the courts of this state or of the United States by reason of any act done or omitted in good faith in the course of employment, the governing body of the municipality shall direct the municipal attorney or other designated legal counsel to appear and defend the action or proceeding on the behalf of the employee in accordance with the provisions of Section 23-102 of this title. The municipal governing body shall not designate an attorney to represent a municipal employee if that employee did not perform a statutorily required duty and such duty is a basis of the civil action or special proceeding.

B. The municipal governing body may direct its attorney to intervene in any action or proceeding and to appear on behalf of the municipality, or any of its officers or employees, if the governing body deems the municipality to have an interest in the subject matter of the litigation.

C. A municipality may indemnify its employees for actual damages, fees and costs in accordance with the Governmental Tort Claims Act.

Laws 1977, c. 256, § 23-101, eff. July 1, 1978; Laws 1984, c. 126, § 48, eff. Nov. 1, 1984; Laws 1992, c. 371, § 3, eff. July 1, 1992.

§11-23-102. Defense of municipal employees - Procedure for request and defense.

If a municipality is to defend a municipal employee in a civil action or special proceeding as provided for in Section 23-101 of this title, the following procedure shall apply:

1. The employee shall make a written request to the governing body of the municipality within ten (10) days after service of summons on the employee. A copy of the request shall be transmitted by the employee to his immediate supervisor and to the municipal attorney or other designated legal counsel;

2. Before any defense is initiated, an inquiry shall be made by the municipal governing body of the facts upon which the action or special proceeding is based. Unless the governing body determines that the employee was acting in good faith and in the course of his employment, representation shall not be provided pursuant to the provisions of Section 23-101 of this title;

3. Upon the decision of the municipal governing body to provide representation for the employee, it shall direct an attorney to appear and defend the action. Said attorney shall determine the method of preparation and presentation of the defense and shall not be held civilly liable for the exercise of such discretion;

4. The employee named in the action may employ private counsel at his own expense to assist in his defense;

5. It shall be the duty of any municipal law enforcement agency to provide investigators at the request of the designated attorney to assist him in implementing the provisions of this section;

6. No findings or reports of the municipal governing body, the designated attorney, or persons making inquiry subject to their direction pursuant to the provisions of this section shall be discoverable or admissible as evidence in any such action or special proceeding, and no reference thereto shall be made in any such trial or hearing; and

7. Any officer or employee who acts outside the scope of his official authority shall be liable for damages in the same manner as any private citizen.

Amended by Laws 1984, c. 126, § 49, eff. Nov. 1, 1984.

§11-23-103. Cost of litigation when municipality defends municipal employee.

The cost of litigation in any case for which representation is provided pursuant to Sections 23-101 and 23-102 of this title shall be paid by the municipality. Cost of litigation shall include, but is not limited to, court cost, deposition expenses, travel and lodging, witness fees and other similar costs; except that this section shall not be construed as authorizing the payment by the municipality of any judgment making an award of monetary damages.

Laws 1977, c. 256, § 23-103, eff. July 1, 1978.

§11-23-103.1. Employee defined.

As used in Sections 23-101 through 23-103 of this title, employee means any person who is acting or who has acted in behalf of a political subdivision or an agency whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but shall not include independent contractors.

Laws 1979, c. 44, § 6, emerg. eff. April 9, 1979.

§11-23-105. Ambulance service - Liability insurance - Employee benefits.

A. The governing body of any municipality or county may contract for ambulance service with the state or any of its agencies or any other municipality, county, person, firm, or corporation or combination thereof subject to such terms and conditions as may be agreed upon between the parties or in accordance with the requirements of the Interlocal Cooperation Act. Such contracts, if with a person, firm, or corporation, shall provide for the carrying

of liability insurance in a sum of not less than the risk of liability of the municipality pursuant to the provisions of Section 154 of Title 51 of the Oklahoma Statutes.

B. Any employee of a municipality, county, or public trust, engaging in ambulance or emergency service provided by the employer shall be entitled to all benefits of any pension fund or insurance benefits to which such employee might otherwise be entitled. If the employee of any city, town, county, or public trust performs ambulance or emergency service in his off-duty hours in addition to such employee's principal employment, the time spent in such additional duty shall not be counted toward the person's pension and the compensation received shall not be used to calculate the pension that person may receive at some future time.

Amended by Laws 1984, c. 126, § 50, eff. Nov. 1, 1984.

§11-23-108. Hospital, health, life and accident insurance for municipal employees and retirees.

A. A municipality may provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid, through any company authorized to do business in Oklahoma, for any or all of its officers or employees and their dependents, whether the officers or employees are engaged in a governmental or nongovernmental function of the municipality. A municipality may also provide such benefits when an officer or employee is ordered by proper authority to active duty in the National Guard or Reserve Corps of the Armed Forces of the United States. The municipality may pay a portion or all of the premiums from any municipal general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority signed by the officer or employee, amounts for the payment of all or any portion of the monthly premium for same.

B. 1. For the purposes of and as used in this subsection:

a. "affected municipality" means a municipality that provides hospital and medical benefits, accident and health insurance, or any of the aforesaid, for any or all of its officers or employees and their dependents pursuant to the provisions of subsection A of this section,

b. "health insurance plan" means the hospital and medical benefits, accident and health insurance, or any of the aforesaid, provided by an affected municipality to its officers or employees pursuant to the provisions of subsection A of this section,

c. "retired employee" means any officer or employee of an affected municipality who receives a continuing benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System, a municipal retirement

system authorized pursuant to the provisions of Section 48-101 et seq. of this title, the Oklahoma Firefighters Pension and Retirement System, or the Oklahoma Police Pension and Retirement System, and who began receiving the benefits immediately after termination of employment, taking into consideration any administrative delays in establishing said continuing benefits, with an affected municipality, provided that the phrase "retired employee" shall include elected officers that have served eight (8) or more years with an affected municipality and the survivor of the elected officer or officer or employee, and

d. "survivor" means a survivor of a retired employee who would have been eligible to make the election authorized by this subsection and shall be determined in accordance with the applicable rules of the retirement system from which said retired employee qualified to receive benefits. Provided, "survivor" shall also mean the surviving spouse or the surviving minor child or children of a person who was an employee or elected official of an affected municipality on or after July 1, 1992, and who continuously participated in the hospital and medical benefits insurance plan of the affected municipality at the time of the death of the employee.

2. Notwithstanding any other state or federal law, a retired employee may continue to elect coverage under any health insurance plan offered by the affected municipality that last employed the retired employee, including any health plans targeted for retirees and Medicare eligible retirees.

3. To participate in the health insurance plan offered by a retired employee's affected municipality, the retired employee shall elect to participate in the health insurance plan within thirty (30) days from the date of termination of employment with the affected municipality.

4. The retired employee who participates in the health insurance plan pursuant to this subsection shall pay up to the full cost of the health insurance plan at the rates and pursuant to the terms and conditions established by the affected municipality,provided the amount of the retired employee's premiums and dependent premiums for said health insurance plan paid by said retired employee who is under sixty-five (65) years of age shall be no greater than one hundred twenty-five percent (125%) of the amount of the officer or employee premiums and dependent premiums for the health insurance plan paid by or on behalf of an officer or employee who is currently employed by the affected municipality.

5. An affected municipality that offers a health insurance plan in accordance with this section to its officers or employees and dependents shall offer a health insurance plan to those retired employees and their dependents who elect to participate in the health insurance plan in accordance with this subsection unless the retired employee or dependent is sixty-five (65) years of age or older and/or qualifies for Medicare.

6. An affected municipality that provides a health insurance plan to retired employees pursuant to this subsection may offer one or more, or a combination of one or more of the following health care options or plans in supplement or as an alternate to traditional Medicare coverage: a coordination of benefits plan, a Medicare supplement (Medigap) plan, a Medicare Advantage plan (with or without an optional Medicare Part D prescription drug plan), a Medicare Part D prescription drug plan, or other similar health care options or plans approved by the federal government's Centers for Medicare and Medicaid Services, to those retired employees and their dependents who are sixty-five (65) years of age or older and/or qualify for Medicare.

7. An affected municipality which participates in the plan or plans offered by the State and Education Employees Group Insurance Board shall not be subject to the provisions of this subsection so long as the participation continues.

8. If a retired employee who retires from an affected municipality that participates in a municipal retirement system authorized pursuant to the provisions of Section 48-101 et seq. of this title does not receive a continuing benefit from the municipal retirement system because of a lump sum distribution from the retirement system to the retired employee or because the municipal retirement system is discontinued, the retired employee shall be entitled to make the election authorized pursuant to this subsection if the retired employee was employed by the affected municipality for at least eight (8) years or was disabled due to a line-of-duty injury while employed by and unable to continue similar employment with the affected municipality.

C. Public and private educational institutions of the state not supported by any state appropriated funds may purchase annuity contracts for any of their full-time officers and employees from any insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions, whether or not such company be authorized to do business in Oklahoma.

Added by Laws 1977, c. 256, § 23-108, eff. July 1, 1978. Amended by Laws 1991, c. 232, § 2, emerg. eff. May 24, 1991; Laws 1992, c. 386, § 1, eff. July 1, 1992; Laws 1993, c. 50, § 1, emerg. eff. April 9, 1993; Laws 1995, c. 53, § 1, emerg. eff. April 10, 1995; Laws 2004,

c. 515, § 4, eff. July 1, 2004; Laws 2014, c. 47, § 1, eff. Nov. 1, 2014.

§11-23-109. Ordinance to establish employee benefit program.

The municipal governing body may enact an ordinance for the establishment of an employee benefit program to encourage outstanding performance in the workplace. The ordinance shall provide for the expenditure of funds for the purchase of recognition awards for presentation to an employee or members of a work unit.
Added by Laws 2018, c. 188, § 2.

§11-24-101. Short Title.

Short Title. This act shall be known and may be cited as the "Oklahoma Municipal Power Authority Act".
Laws 1981, c. 218, § 1, emerg. eff. June 2, 1981.

§11-24-102. Legislative Findings and Declaration of Necessity.

Legislative Findings and Declaration of Necessity. It is declared that the provision of adequate, reliable and economic sources of electrical energy is in the public interest; that there is a need to establish a means by which municipalities and public trusts operating municipal electric systems may jointly plan, finance, own and operate facilities relating to electrical energy and acquire fuel and other supplies for the generation of electrical energy through the creation of a power authority in order to achieve economies and efficiencies not possible for municipalities and public trusts acting alone; that the joint planning, financing, ownership and operation of facilities relating to electrical energy, the acquisition of fuel and other supplies for the generation of electrical energy and the issuance of revenue bonds as provided herein is for a public use and serves a valid public purpose; and that the Legislature finds it necessary and proper to provide a method for municipalities and public trusts operating municipal electric systems to jointly plan, finance, develop, own or operate, either by themselves or with other public agencies, utilities or persons, facilities appropriate to the present and projected needs of such municipalities and public trusts for electrical energy. It is further declared that the intent of this act is to consider all methods for the generation of electrical energy and to provide such energy in the most economical manner available.
Laws 1981, c. 218, § 2, emerg. eff. June 2, 1981.

§11-24-103. Creation of the Authority.

Creation of the Authority. There is hereby created within the State of Oklahoma a power authority to be known as "Oklahoma Municipal Power Authority". Said Authority shall be, and is hereby declared to be a state governmental agency, body politic and

corporate, with powers of government and with authority to exercise the rights, privileges and functions hereinafter specified.

Nothing in this act or in any other act or law contained, however, shall be construed as authorizing the Authority to levy or collect taxes or assessments, or to create any indebtedness payable out of the taxes or assessments, or in any manner to pledge the credit of the State of Oklahoma, or any subdivision thereof.
Laws 1981, c. 218, § 3, emerg. eff. June 2, 1981.

§11-24-104. Members.

Members. (a) (i) Election Committee. The Authority shall be governed by a Board of Directors consisting of seven members or such greater number, but in no event more than eleven members, as provided in the bylaws of the Authority as in effect from time to time. Members of the Board of Directors of the Authority shall be eligible to succeed themselves and shall be elected by the election committee as hereinafter provided in this section. On or before the 90th day following the effective date of this act, each of those eligible public agencies which shall have, prior to such 90th day, by proper resolution of its governing body or its public trust, declared its intention to participate, or to have any public trust operating its electric system participate, with the Authority in the development of power supply resources, shall designate one person as its representative on the election committee. All such resolutions of declaration of intention to participate with the Authority shall be filed with the Secretary of State and shall be presented to the election committee at its first meeting which shall be held in the office of the Municipal Electric Systems of Oklahoma at 11:00 a.m. on the first Tuesday following such 90th day. At such meeting the election committee shall organize and elect a chairman and such other officers as may be desirable in the determination of the election committee. The election committee shall then determine the sufficiency of the resolutions presented to it.

(ii) Election Committee Voting. For purposes of voting upon any matter which may properly come before the election committee, each representative shall have one vote unless otherwise provided in the bylaws of the Authority as in effect from time to time. The presence at any meeting of the election committee of representatives entitled to cast a majority of the total votes to which the election committee shall be entitled shall, unless otherwise provided in the bylaws of the Authority as in effect from time to time, constitute a quorum of the election committee.

(iii) Bylaws of the Authority.

(A) The bylaws of the Authority shall be adopted by the election committee of the Authority by a majority vote of the election committee and may thereafter be amended at any time and from time to time in whole or in part by the election committee or by the

Board of Directors by a majority of the total votes entitled to be cast at any properly called and constituted meeting thereof, provided, however, that any such amendment shall not violate the provisions of Section 19 hereof.

(B) The bylaws of the Authority shall provide the following:

(1) the time, place, manner of calling, notice, quorum and voting provisions, and other procedural rules for regular and special meetings of the election committee of the Authority;

(2) the time, place, manner of calling, notice, quorum and voting provisions, and other procedural rules for regular and special meetings of the Board of Directors of the Authority;

(3) provisions for the number, election, term of office and removal of members of the Board of Directors and for filling vacancies on the Board of Directors;

(4) the titles, duties and manner of election, removal and replacement of officers of the Authority;

(5) provisions governing when the Authority may dissolve and the disposition of property of the Authority and the procedures to be followed in the event of such a dissolution, provided, however, that any such dissolution shall not violate the provisions of Section 19 hereof; and (6) such other rules for regulating the affairs of the Authority as the election committee or the Board of Directors may deem necessary or advisable.

(iv) Board of Directors. The initial members of the Board of Directors of the Authority shall be elected by the election committee of the Authority. Members of the Board of Directors of the Authority shall be residents of the State of Oklahoma. Members of the Board of Directors of the Authority may, but need not, be members of the election committee. Each member of the Board of Directors of the Authority shall hold office until the adjournment of the annual meeting of the Board of Directors held at, or nearest to, the expiration of his term of office as provided in the bylaws of the Authority and until his successor is elected.

(b) Additional Members of Election Committee. Each eligible public agency declaring its intention, by proper resolution of its governing body, to participate, or to have any public trust operating its electric system participate, with the Authority in the development of power supply resources after the 90th day following the effective date of this act shall promptly file such resolution with the Secretary of State and give written notice to the Authority of the adoption of such resolution and shall then designate one person as an additional member of the election committee whose term shall begin with the first meeting of the election committee which is held following the expiration of ten (10) days from the date of receipt of notice of the adoption of such resolution by the Authority. Members of the election committee shall serve at the

pleasure of the governing body of the eligible public agency by which they were appointed.
Laws 1981, c. 218, § 4, emerg. eff. June 2, 1981. de

§11-24-105. Definitions.

Definitions. As used in this act the following words shall have the following meanings unless the context clearly indicates otherwise:

(a) "Authority" shall mean the Oklahoma Municipal Power Authority hereby created and any successor or successors thereto. Any change in name or composition of the Authority shall in no way affect the vested rights of any person under the provisions of this act or impair the obligations of any contracts existing under this act.

(b) "Board of Directors" shall mean the Board of Directors elected by the election committee as set forth in Section 4 of this act which shall exercise all the powers and manage and control all the affairs and property of the Authority unless otherwise specifically provided herein or in the bylaws of the Authority as in effect from time to time.

(c) "Bonds" shall mean any revenue bonds, notes or other evidences of obligations of the Authority issued by the Authority under the provisions of this act, including, without limitation, bond anticipation notes and refunding bonds.

(d) "Eligible public agency" shall mean any municipality, authority or other public body which owns, maintains or operates an electrical energy generation, transmission or distribution system within the State of Oklahoma on the date on which this act becomes law.

(e) "Person" shall mean (i) any natural person; (ii) any eligible public agency as defined herein; (iii) any public trust as defined herein; (iv) the United States, any state, any municipality, political subdivision, municipal corporation, unit of local government, governmental unit or public corporation created by or pursuant to the laws of the United States or any state, or any board, corporation or other entity or body declared by the laws of the United States or any state to be a department, agency or instrumentality thereof; (v) any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of the United States or any state; or (vi) any foreign country, any political subdivision or governmental unit of any foreign country or any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of any foreign country or of any political subdivision or governmental entity thereof.

(f) "Project" shall mean any plant, works, system, facilities and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, located within or without the State of Oklahoma, used or useful in the generation, production, transmission, purchase, sale, exchange or interchange of electrical energy and in the acquisition, extraction, processing, transportation or storage or of fuel of any kind for any such purposes or any interest in, or right to the use, services, output or capacity, of any such plant, works, system or facilities; provided, however, a project shall not include (i) any interest in any plant for the generation of electrical energy which is to be owned jointly with any investor-owned utility if such plant is not existing on May 10, 1981, or (ii) any interest in any nuclear powered generating plant. For purposes of this definition, a plant shall be considered to be existing if construction shall have been commenced at the plant site, if orders have been placed for major components of equipment or if the plant is to consist of an additional unit at the site of an already existing unit which will use in common any of the existing facilities at such site.

(g) "Public trust" shall mean any public trust created and existing under the provisions of the Trusts for Furtherance of Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as provided by Sections 175 et seq. of Title 60 of the Oklahoma Statutes, which has as its beneficiary a municipality and which owns, maintains or operates an electrical energy generation, transmission or distribution system serving the residents and consumers of such municipality and existing on the date on which this act becomes law or created hereafter with an eligible public agency as the beneficiary.

Laws 1981, c. 218, § 5, emerg. eff. June 2, 1981. de

§11-24-105.1. Electric generation project - Joint interest - Exception.

Notwithstanding the provisions of subsection (f) of Section 24-105 of Title 11 of the Oklahoma Statutes that prohibits joint ownership in any plant for the generation of electric energy with any investor-owned utility that did not exist on May 10, 1981, the Oklahoma Municipal Power Authority is hereby authorized to own a joint interest in any electric generation project, except any nuclear generating plant.

Added by Laws 2001, c. 397, § 2, emerg. eff. June 4, 2001.

§11-24-106. Public Property.

Public Property. It is hereby found, determined, and declared that the creation of the Authority and the carrying out of its corporate purposes are in all respects for the benefit of the people

of this state and that the Authority is an institution of purely public charity performing an essential governmental function and all property of said Authority (including the Authority's interest in any property held jointly with any other person) is hereby declared and shall in all respects be considered to be public property and title to such property shall be held by the Authority only for the benefit of the public and the use of such property pursuant to the terms of this act shall be and is hereby declared to be for essential public and governmental purposes, that is, for the promotion of public general welfare in the matter of providing an adequate, dependable and economic electric power supply in an effort to better the general condition of the residents of the State of Oklahoma, and all of the property of and income, obligations and interest on all the bonds and notes of the Authority and the transfer thereof shall be and hereby are declared to be nontaxable for any and all purposes by the State of Oklahoma or any of its political subdivisions.
Laws 1981, c. 218, § 6, emerg. eff. June 2, 1981. der

§11-24-107. Powers, rights and privileges of Authority.

(a) The Authority shall have and is hereby authorized to exercise all powers, rights and privileges enumerated in this section. Such powers, rights and privileges shall be exercised by its Board of Directors unless otherwise specifically provided herein or by the bylaws of the Authority as in effect from time to time.

(b) The Authority may plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate, individually or jointly with other persons, in one or more projects, proposed, existing or under construction, and may act as agent, or designate one or more persons, whether or not participating in a project, to act as its agent, in connection with the planning, financing, acquisition, construction, reconstruction, ownership, lease, operation, maintenance, repair, extension or improvement of the project.

(c) The Authority may investigate the desirability of and necessity for additional sources and supplies of electrical energy and fuel and other supplies of any kind for such purpose, and make studies, surveys and estimates as may be necessary to determine the feasibility and cost thereof.

(d) The Authority may cooperate with other persons in the development of sources and supplies of electrical energy and fuel and other supplies of any kind for such purposes, and give assistance with personnel and equipment in any project.

(e) The Authority may apply to any person for consents, authorizations or approvals required for any project within its powers and take all actions necessary to comply with the conditions thereof.

(f) The Authority may perform any act authorized by this act through, or by means of, its officers, agents or employees or by contract with any person, including, without limitation, the employment of engineers, architects, attorneys, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the Board of Directors, and fix and pay their compensation from funds available to the Authority therefor.

(g) The Authority may acquire, hold, use and dispose of income, revenues, funds and money.

(h) The Authority may, individually or jointly with other persons, acquire, own, hire, use, operate and dispose of personal property and any interest therein.

(i) The Authority may, individually or jointly with other persons, acquire, own, use, lease as lessor or lessee, operate and dispose of real property and interests in real property, including projects existing, proposed or under construction, and make improvements thereon.

(j) The Authority may grant the use by franchise, lease or otherwise and make charges for the use of any property or facility owned or controlled by it.

(k) The Authority may borrow money and issue negotiable bonds, secured or unsecured, in accordance with this act, and may enter into interest rate swaps and other derivative products, and other financial instruments intended to hedge interest rate risk or manage interest rate costs, including any option to enter into or terminate any of them, that the Authority deems to be necessary or desirable in connection with any bonds issued prior to, at the same time as, or after entering into such arrangement, and containing such terms and provisions, and may be with such parties, as determined by the Authority. Provided, any action taken by the Authority pursuant to this subsection must first be approved by the Office of the State Bond Advisor and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

(l) The Authority may invest money of the Authority not required for immediate use, including proceeds from the sale of any bonds.

(m) The Authority may exercise the power of eminent domain in accordance with the provisions of Section 24-110 of this title.

(n) The Authority may determine the location and character of, and all other matters in connection with, any and all projects it is authorized to acquire, hold, establish, effectuate, operate or control.

(o) The Authority may contract with any person for the planning, development, construction, operation, sale or lease as lessor or lessee of any project or for any interest therein, on such terms and for such period of time as its Board of Directors shall determine.

(p) The Authority may contract with any eligible public agency, any public trust, or any other person for the sale of power and

energy, transmission services, power supply development services or other services within or without the State of Oklahoma on such terms and conditions as the Board of Directors shall approve. Any such contract may be for the sale of output and services of a particular project or may be for output and services generally without regard to a specific project and may be for the supply of a specific quantity of output or a percentage of the output of a specific project or other specific facility or may be based on the requirements of the purchaser or may be on such other terms and conditions as the Board of Directors deems appropriate.

(q) The Authority may enter into any contract or agreement necessary, appropriate or incidental to the effectuation of its lawful purposes and the exercise of the powers granted by this act, including, without limitation, contracts or agreements for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or storage of electric power and energy, and fuel and other supplies of any kind for any such purposes, within and without the State of Oklahoma, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, on such terms and for such period of time as the Board of Directors determines, and derivative or other instruments intended to hedge fuel cost risk associated with any projects or power purchases or supply arrangements of the Authority, or to hedge fixed or variable interest rate exposure associated with permitted investments, including any option to enter into or terminate any of them, that the Authority deems to be necessary or desirable, and containing such terms and provisions, and may be with such parties, as determined by the Authority.

(r) In any case in which the Authority participates in a project as a joint owner with one or more persons, the Authority may enter into an agreement or agreements with respect to such project with the other person or persons participating therein, and any such agreement may contain such terms, conditions and provisions consistent with the provisions of the act as the parties thereto shall deem to be in their best interest. Any such agreement may include, but need not be limited to, provisions defining what constitutes a default thereunder and providing for the rights and remedies of the parties thereto upon the occurrence of such a default deemed appropriate by the Board of Directors including, to the extent deemed appropriate, the acquisition by nondefaulting parties of all or any part of the defaulting party's interest; provisions setting forth such restraints on alienation of the interests of the parties in the project as the Board of Directors deems appropriate; provisions for the construction, operation and maintenance of such electric generation or transmission facility by any one or more of the parties to such agreement which party or parties shall be designated in or pursuant to such agreement as agent or parties thereto or by such other means

as may be determined by the parties thereto; and provisions for a method or methods of determining and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project. In exercising its power to participate in a project as a joint owner with one or more persons, the Authority may not loan its credit to any person which is a joint owner of such project; provided, however, the appropriate allocations of the costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project between the Authority and such persons shall not be a loan of credit by the Authority to such persons. In carrying out its functions and activities as such agent with respect to construction, operation and maintenance of a project, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating parties. Notwithstanding anything contained in any other law to the contrary, pursuant to the terms of any such agreement, the Authority may delegate its powers and duties with respect to the construction, operation and maintenance of such project to the person acting as agent; and all actions taken by such agent in accordance with the provisions of such agreement may be made binding upon the Authority without further action or approval by the Authority.

(s) The Authority may procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable, or may self-insure against such losses.

(t) The Authority may contract for and accept any gifts, grants or loans of funds or property or financial or other aid in any form from any person, and may comply, subject to the provisions of this act, with the terms and conditions thereof.

(u) The Authority may adopt a corporate seal and may sue or be sued.

(v) The Authority may exercise all other powers not inconsistent with the Constitution of the State of Oklahoma or the United States Constitution, which powers may be reasonably necessary or appropriate for or incidental to effectuate its authorized purposes or to the exercise of any of the powers enumerated in this act.

(w) Notwithstanding any other provision herein seemingly to the contrary, the Authority may not sell output (i) at retail to the ultimate consumers thereof, (ii) to any municipality which does not qualify as an eligible public agency under the definition set forth in subsection (d) of Section 24-105 of this title, or (iii) to any trust created and existing under the provisions of the Local Industrial Development Act, as provided by Sections 651 et seq. of Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of

Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, which does not qualify as a public trust under the definition set forth in subsection (g) of Section 24-105 of this title.
Added by Laws 1981, c. 218, § 7, emerg. eff. June 2, 1981. Amended by Laws 2006, c. 123, § 1, eff. Nov. 1, 2006.

§11-24-108. Issuance of bonds.

A. Purposes. The Authority may issue bonds in such principal amounts as the Authority deems necessary to provide sufficient funds to perform any of its corporate purposes and powers including, without limitation, the acquisition, construction, or termination of any project to be owned or leased, as lessor or lessee, by the Authority or the acquisition of any interest therein or any right to the products or services thereof, the funding or refunding of the principal of, redemption premium, if any, and interest on, any bonds issued by the Authority whether the bonds or interest to be funded or refunded have or have not become due, the payment of engineering, legal, and other expenses, together with interest subsequent to the estimated date of completion of the project for such period of time as the Board of Directors determines appropriate, the establishment or increase of reserves to secure or to pay the bonds or interest thereon, the providing of working capital, and the payment of, and the establishment or increase of reserves for, all other costs or expenses of the Authority incident to, and necessary or convenient to perform, its corporate purposes and powers.

B. Security for Bonds. Every issue of bonds of the Authority shall be payable out of the revenues or funds of the Authority, subject to any agreements with the holders of particular bonds pledging any particular revenues or funds. The Authority may issue such types of bonds as it may determine to be appropriate, including bonds as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to the products and services thereof, or from one or more revenue-producing contracts made by the Authority with any person, or its revenues generally. Any such bonds may be additionally secured by a pledge or assignment of any revenue-producing contracts made by the Authority with any person or of any grant, subsidy, or contribution from any person or a pledge of any income or revenues, funds, or monies of the Authority from any source.

C. Negotiability. All bonds of the Authority shall have all the qualities of negotiable instruments pursuant to the laws of this state.

D. Bond Provisions. Bonds of the Authority shall be authorized by a resolution adopted by a majority of the members of the Board of Directors then in office and may be issued pursuant to the bond

resolution or pursuant to a trust indenture or other security agreement, in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates which may be fixed or may change at such time or times and in accordance with such formula or method of determination. The bonds shall also be in such form, either coupon or registered, carry such conversion, registration, and exchange privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or without this state, be subject to such terms of redemption with or without premium, and contain or be subject to such other terms as the bond resolution, trust indenture, or other security agreement may provide. The bonds shall not be restricted by the provisions of any other law limiting the amounts, maturities, interest rates, or other terms of obligations of eligible public agencies or private persons. The bonds shall be sold, in such manner as the Board of Directors shall determine, at public or private sale. The Board of Directors may also authorize bonds to be issued and sold from time to time and may delegate to such officer or agent of the Authority as the Board of Directors selects the power to determine the time and manner of sale, public or private, the maturities and rate or rates of interest which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination, provided that the interest cost of the money received from the sale of the bonds computed to maturity in accordance with standard bond tables in general use by banks and insurance companies shall not exceed the maximum rate of interest provided for in this section. The bonds shall be subject to such other terms and conditions deemed appropriate by the officer or agent; provided, however, that the amounts and maturities of, and the interest rate or rates not exceeding the maximum rate of interest provided for in this section on, the bonds shall be within the limits prescribed by the Board of Directors in its resolution delegating to the officer or agent the power to authorize the sale and issuance of the bonds.

E. Execution of Bonds. Bonds of the Authority may be issued and delivered notwithstanding the fact that one or more of the officers executing them shall have ceased to hold office at the time the bonds are actually delivered.

F. Temporary Bonds. Pending preparation of definitive bonds, the Authority may issue temporary bonds which shall be exchanged for the definitive bonds.

G. Consents. Bonds of the Authority may be issued pursuant to the provisions of the Oklahoma Municipal Power Authority Act without obtaining the consent of any department, division, commission, board, bureau, or agency of this state and without any other proceeding, condition, or occurrence except as specifically required by the provisions of the Oklahoma Municipal Power Authority Act.

H. Official Statement, Prospectus or Offering Document; Filing. At least five (5) business days prior to the delivery of and payment for any bonds, there shall be filed with the Secretary of State a preliminary copy of the official statement, prospectus, or other offering document pertaining to the issuance. Prior to the expiration of fifteen (15) business days following the bond delivery and payment, there shall be filed with the Secretary of State and the Oklahoma Securities Commission a copy, in final form, of the official statement, prospectus, or other offering document. If no official statement, prospectus, or other offering document is used in connection with the sale of the bonds, in lieu thereof there shall be filed a copy of the draft and final proceedings of the Authority authorizing the sale and issuance of the bonds.

I. Resolution Constitutes a Contract. The bond resolution, trust indenture, or other security agreement pursuant to which any bonds are issued shall constitute a contract with the holders of the bonds and may contain provisions including but not limited to:

1. The terms and provisions of the bonds;

2. The pledge and grant of a security interest in any personal property and in all or any part of the revenue from any project or any revenue-producing contract made by the Authority with any person to secure the payment of bonds, subject to any agreements with the holders of bonds which might then exist;

3. The custody, collection, securing, investment, and payment of any revenues, assets, money, funds, or property with respect to which the Authority may have any rights or interest;

4. The rates or charges for electrical energy or other services rendered by the Authority, the amount to be raised by the rates or charges, and the use and disposition of any or all revenue;

5. The creation of reserves or sinking funds and the regulation and disposition thereof;

6. The purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge or revenues to secure the payment of the bonds;

7. The limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

8. The rank or priority of any bonds with respect to any lien or security;

9. The creation of special funds or monies to be held in trust or otherwise for operational expenses, payment, or redemption of bonds, reserves, or other purposes, and the use and disposition of monies held in the funds;

10. The procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or revised, the amount of bonds the holders of which must consent thereto, and the manner in which consent may be given;

11. The definition of the acts or omissions to act which shall constitute a default in the duties of the Authority to holders of its bonds, and the rights and remedies of the holders in the event of default, including, if the Authority so determines, the right to accelerate the due date of the bonds or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the bond resolution, trust indenture, or other security agreement;

12. Any additional agreements with or for the benefit of the holders of bonds or any covenants or restrictions necessary or desirable to safeguard the interest of the holders;

13. The custody of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

14. The vesting in a trustee or trustees, within or without this state, of such properties, rights, powers, and duties in trust as the Authority may determine, or the limiting or abrogating of the rights of the holders of any bonds to appoint a trustee, or the limiting of the rights, powers, and duties of the trustee; or

15. The appointment of and the establishment of the duties and obligations of, any paying agent or other fiduciary within or without this state.

J. Any pledge of revenues, securities, contract rights, or other personal property made by the Authority pursuant to the provisions of the Oklahoma Municipal Power Authority Act shall be valid and binding from the date the pledge is made. The revenues, securities, contract rights, or other personal property so pledged and then held or thereafter received by the Authority or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority without regard to whether the parties have notice of the lien. The bond resolution, trust indenture, security agreement, or other instrument by which a pledge is created need not be filed or recorded in any manner.

K. Neither the officials, directors, members of the Authority, or any person executing bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. The Authority shall have power to indemnify and to purchase and maintain insurance on behalf of any director, officer, employee, or agent of the Authority, in connection with any threatened, pending, or completed action, suit, or proceeding.

L. The Authority shall have power to purchase bonds out of any funds available therefor, and to hold, pledge, cancel, or retire the bonds and coupons prior to maturity, subject to and in accordance with any agreements with the holders.

M. The principal of, premium, if any, and interest upon any bonds issued by the Authority shall be payable solely from the

revenues or funds pledged or available for their payment as authorized by the provisions of the Oklahoma Municipal Power Authority Act. Each bond shall contain a statement that it constitutes an obligation of the Authority, that the principal thereof, premium, if any, and interest thereon are payable solely from revenues or funds of the Authority and that neither the State of Oklahoma or any political subdivision thereof, or any eligible public agency or public trust which has contracted with the Authority, is obligated to pay the principal of, premium, if any, or interest on the bonds and that neither the faith and credit or the taxing power of the State of Oklahoma or any such political subdivision thereof or of any such eligible public agency or public trust is pledged to the payment of the principal of, premium, if any, or the interest on the bonds.
Added by Laws 1981, c. 218, § 8, emerg. eff. June 2, 1981. Amended by Laws 1983, c. 310, § 1, eff. Nov. 1, 1983; Laws 2006, c. 123, § 2, eff. Nov. 1, 2006.

§11-24-109. Judicial Determination by Supreme Court of Validity of Bonds, Contracts and Other Acts - Notice.

Judicial Determination by Supreme Court of Validity of Bonds, Contracts and Other Acts--Notice. The Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for approval by said court of any bonds to be issued under this act, or to file a petition for a judgment determining the validity of any proposed contract or action arising from the exercise of any of the powers, rights, privileges and functions conferred upon the Authority, eligible public agencies or public trusts under this act; and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application or petition. It shall be the duty of the court to give such applications and petitions precedence over the other civil business of the court except habeas corpus proceedings, and to consider and pass upon the applications and petitions and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application and petition shall be given by a notice published in a newspaper of general circulation in the state that on a day named the Authority will ask the court to hear its application and approve the bonds, or hear its petition and enter a declaratory judgment. Such notice shall inform property owners, taxpayers, ratepayers, citizens and all persons having or claiming any right, title or interest in such matter or properties or funds to be affected by the issuance of such bonds, or proposed contract or action, or affected in any way thereby, that they may file protests against the issuance of the bonds, the validity of the contracts or action, or the declaratory judgment, and be present at the hearings and contest the legality thereof. Such notice shall be published one time not less

than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the court. If the court shall be satisfied that the bonds have been properly authorized in accordance with this act and that, when issued, they will constitute valid obligations in accordance with their terms, the court shall render its written opinion approving the bonds, and shall, upon application of the Authority, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such bonds, or of the rates, fees or charges authorized to be charged for the payment thereof, or the pledge of revenues, monies, securities, contract rights or other personal property to secure such payment, and shall fix the time within which a petition for rehearing may be filed. If the court shall be satisfied that the proposed contract or action is in accordance with this act, the court shall enter a judgment approving and declaring such contract or action to be valid, and shall, upon application of the Authority, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such contract or action, and shall fix the time within which the petition for rehearing may be filed. The decision of the court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, its officers and agents, and thereafter the bonds so approved and the revenues, monies, securities, contract rights or other personal property pledged to their payments shall be incontestable in any court in the State of Oklahoma, and any declaratory judgment on any contract or action of the Authority, any eligible public agency or any public trust entered pursuant to this section shall have the force and effect of a final judgment or decree.
Laws 1981, c. 218, § 9, emerg. eff. June 2, 1981.

§11-24-110. Eminent Domain.

Eminent Domain. Except as otherwise provided by this act, the Authority may acquire all real or personal property that it deems necessary for carrying out the purposes of this act, whether in fee simple absolute or a lesser interest, by condemnation and the exercise of the power of eminent domain in the manner and by like proceedings as provided by general law with respect to condemnation. The Authority shall never have power of eminent domain with respect to any real or personal property or interest therein at the time owned or leased by any person as part of a system, whether existing, under construction or being planned, or facilities for the generation, transmission, production or distribution of electrical power. The authority of the Authority to acquire real or personal property by condemnation or the exercise of the power of eminent

domain shall be a continuing power, and no exercise thereof shall exhaust it.
Laws 1981, c. 218, § 10, emerg. eff. June 2, 1981.

§11-24-111. Legal Investments.

Legal Investments. The bonds herein authorized are hereby made securities in which all public officers and bodies of this state and all political subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all political subdivisions for any purpose for which deposit of bonds or other obligations of this state is now or may hereafter be authorized.
Laws 1981, c. 218, § 11, emerg. eff. June 2, 1981.

§11-24-112. Powers of Eligible Public Agencies and Public Trusts.

Powers of Eligible Public Agencies and Public Trusts.

(a) In order to accomplish the purposes of this act, any eligible public agency, subject to the restrictions of Article 10, Sections 17, 26 and 27 of the Constitution of the State of Oklahoma, or any public trust may enter into and carry out contracts and agreements for the purchase from the Authority of power and energy, transmission services, power supply development services and other services.

(i) Each such contract and agreement shall be for such period and shall contain such other terms, conditions and provisions, not inconsistent with the provisions of this act, as the Board of Directors of the Authority shall approve, including, without limitation, provisions whereby the eligible public agency or public trust is obligated to pay for the products and services of the Authority without set-off or counterclaim and irrespective of whether such products or services are furnished, made available or delivered to the eligible public agency or public trust or whether any project contemplated by any such contract and agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the products and services of such project.

(ii) Each such contract and agreement may be pledged by the Authority to secure its obligations and may provide that if one or

more eligible public agencies or public trusts defaults in the payment of its obligations under such contract and agreement, the remaining eligible public agencies and public trusts having such contracts and agreements shall be required to pay for and shall be entitled proportionately to use or otherwise dispose of the products and services which were to be purchased by the defaulting eligible public agency or public trust.

(iii) Each such contract and agreement shall be a limited obligation of an eligible public agency or public trust payable from and may be secured by a pledge of, and lien and charge upon, all or any part of the revenues derived or to be derived from the ownership and operation of its electric or other integrated utility system as and, if so provided in such contract or agreement, shall be an expense of operation and maintenance thereof, and shall not constitute an indebtedness of such eligible public agency or public trust for the purpose of any statutory limitation.

(iv) Nothing in this act shall be construed to preclude an eligible public agency or public trust from appropriating and using taxes and other revenues received in any year to make payments due or to comply with covenants to be performed during that year under any contract or agreement entered into as contemplated in this act.

(b) Any such contract or agreement may include provisions for the sale of output and services of a particular project or for output and services generally without regard to a specific project and for the supply of a specific quantity of output or a percentage of the output of a specific project or other specific facilities or for the supply of output based upon the requirements of the purchaser and on such other terms and conditions as the Board of Directors and the contracting or agreeing party deem appropriate.

(c) In the event of any failure or refusal on the part of the eligible public agency or public trust to perform punctually any covenant or obligation contained in any such contract, the Authority may enforce performance by any legal or equitable process, including specific performance.

Laws 1981, c. 218, § 12, emerg. eff. June 2, 1981. de

§11-24-113. Rents, Rates and Other Charges; Corporation Commission Exemption.

Rents, Rates and Other Charges; Corporation Commission Exemption. The Authority may establish, levy and collect or may authorize, by contract, franchise, lease or otherwise, the establishment, levying and collection of rents, rates and other charges for the products and services afforded by the Authority or by or in connection with any project which it may construct, acquire, own, operate or control or with respect to which it may have any interest or any right to the products and services thereof as it may deem necessary, proper, desirable or reasonable. Rents, rates and other charges shall be at

least sufficient to meet the operation, maintenance and other expenses thereof, including reasonable reserves, interest and principal payments, including payments into one or more sinking funds for the retirement of principal, to comply with all terms and provisions of the bond resolution, trust indenture or other security agreement relating to the bonds issued in connection with any project, to accumulate any excess income which may be required by the purchasers of such bonds or may be dictated by the requirements of such bond resolution, trust indenture or security agreement for achieving ready marketability of and low interest on such bonds and to generate funds sufficient to fulfill the terms of any other contracts or agreements made by the Authority. The Authority may pledge its rates, rents and other revenue, or any part thereof, as security for the repayment, with interest and premium, if any, of any monies borrowed by it or advanced to it for any of its authorized purposes and as security for the payment of amounts due and owing by it under any contract.

The Authority shall be exempt in any and all respects from the jurisdiction or control of the Oklahoma Corporation Commission. Nothing herein shall be construed as depriving the State of Oklahoma of its power to regulate and control fees and/or charges to be collected for the use of any products and services afforded by the Authority, provided, that the State of Oklahoma does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the power hereby vested in the Authority to establish, levy and collect such rents, rates and other charges as will produce revenue sufficient to meet the operation, maintenance and other expenses set forth in the preceding paragraph of this Section 13, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the Authority in connection with such bonds are fully met and discharged.
Laws 1981, c. 218, § 13, emerg. eff. June 2, 1981.

§11-24-114. Acquisition and Construction Contracts.

The Authority shall be subject to the provisions of the Public Competitive Bidding Act, as provided by Sections 101 et seq. of Title 61 of the Oklahoma Statutes, provided, however, where the Authority is purchasing an undivided interest in a project that is being constructed or operated by another person, the initial purchase of such interest by the Authority and any contracts entered into by such person while acting as agent for the Authority in connection with such project shall not be subject to the provisions of such act.
Added by Laws 1981, c. 218, § 14, emerg. eff. June 2, 1981.

§11-24-115. Financial statements - Filing.

Within ninety (90) days following the closing of each fiscal year, the Authority shall cause to be prepared certified financial statements which shall be filed with the State Auditor and Inspector and with the Director of the Office of Management and Enterprise Services in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.
Added by Laws 1981, c. 218, § 15, emerg. eff. June 2, 1981. Amended by Laws 1996, c. 290, § 1, eff. July 1, 1996; Laws 2012, c. 304, § 45.

§11-24-116. Meetings and Records.

Meetings and Records. All meetings of the Authority shall be subject to the provisions of the Oklahoma Open Meeting Act, as provided by Sections 301 et seq. of Title 25 of the Oklahoma Statutes. All records of the Authority shall be subject to the provisions of Section 24 of Title 51 of the Oklahoma Statutes.
Laws 1981, c. 218, § 16, emerg. eff. June 2, 1981.

§11-24-117. Construction.

Construction. This act and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein; provided however, nothing in this act shall be construed to authorize the Authority to loan its credit to any investor-owned utility nor to acquire or subsidize any nuclear powered generating plant.
Laws 1981, c. 218, § 17, emerg. eff. June 2, 1981.

§11-24-118. Powers Declared Supplementary.

Powers Declared Supplementary. The provisions of this act shall be regarded as supplementary and additional to and cumulative of powers conferred by other laws and shall not be regarded as being in derogation of any powers now existing.
Laws 1981, c. 218, § 19, emerg. eff. June 2, 1981. d

§11-24-119. Irrevocable Contracts.

Irrevocable Contract. While any of the bonds issued by the Authority shall remain outstanding or while the Authority has any undischarged duties or obligations under any contract or agreement, including obligations to any joint owner of any project, the powers, duties or existence of the Authority or of its officers, employees or agents shall not be diminished, impaired or affected in any manner which will affect adversely the interest and right of the owners of such bonds or the persons to whom such duties or obligations are owed under such contracts or agreements. The provisions of this act shall be for the benefit of the state, the Authority, every owner of the

Authority's bonds and every other person to whom the Authority owes a duty or is obligated by contract or agreement and, upon and after the issuance of bonds under the provisions of this act, shall constitute an irrevocable contract by the state with the owners of such bonds and the other persons to whom the Authority owes a duty or is obligated by such contracts or agreements.
Laws 1981, c. 218, § 19, emerg. eff. June 2, 1981.

§11-24-120. Personnel to be Included in Unclassified Service.
Personnel to be Included in Unclassified Service. In addition to those officers and positions in the unclassified service of the state as now provided by law, all personnel of the Authority shall be included in the unclassified service of the state.
Laws 1981, c. 218, § 20, emerg. eff. June 2, 1981.

§11-24-121. Partial Invalidity.
Partial Invalidity. If any provision of this act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.
Laws 1981, c. 218, § 26, emerg. eff. June 2, 1981.

§11-25-101. Oklahoma Municipal Energy Independence Act.
This act shall be known and may be cited as the "Oklahoma Municipal Energy Independence Act".
Added by Laws 2011, c. 103, § 1, eff. Nov. 1, 2011.

§11-25-102. Municipal energy district authority - Trustees.
A. The governing body of a municipality, by ordinance, may establish a municipal energy district authority for the municipality. The authority shall be a public trust as provided for in Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes.
B. The authority shall consist of five trustees as follows:
1. The mayor of the municipality;
2. Two members of the governing board of the municipality; and
3. Two persons appointed by the mayor of the municipality who shall be residents of the municipality and shall not be elected officials.
C. The mayor of the municipality shall serve as chair of the authority.
Added by Laws 2011, c. 103, § 2, eff. Nov. 1, 2011.

§11-25-103. Trustees' meetings.
The trustees of a municipal energy district authority shall establish a time and place for regular meetings and may hold special meetings as may be required for the proper transaction of business.

Three trustees shall constitute a quorum for the transaction of business and upon all questions requiring a vote of the trustees there shall be a concurrence of three trustees for approval.
Added by Laws 2011, c. 103, § 3, eff. Nov. 1, 2011.

§11-25-104. Trustees' powers and duties.

A. The trustees of a municipal energy district authority shall be authorized to:

1. Manage and conduct the business and affairs of the authority;
2. Make and execute all necessary contracts;
3. Secure funding through sources which may include:
    a. issuance of notes or bonds,
    b. public or private lenders,
    c. grants or loans from other governmental entities when funds are available, or
    d. any other public or private funding source;
4. Make loans directly to willing and consenting property owners or through a financial institution for the following purposes:
    a. to finance the purchase and installation of distributed-generation renewable energy sources,
    b. to make energy-efficient improvements or retrofits that are permanently affixed to residential, commercial, or industrial property,
    c. to conduct residential and commercial building energy audits, and
    d. to establish financial incentive programs for energy-efficient improvements; and
5. Make loans or other repayment mechanisms for capital expenditures available to implement green community programs and qualified energy-conservation projects.

B. The trustees of an energy district authority shall coordinate with electric utilities that provide electric service within the borders of the municipality on programs offered by the authority pursuant to the Oklahoma Municipal Energy Independence Act. No program offered by a municipal energy district authority shall be used directly or indirectly to compete against an electric service provider's similar program within the borders of the municipality for electric customers.
Added by Laws 2011, c. 103, § 4, eff. Nov. 1, 2011.

§11-25-105. Application of act.

A. The Oklahoma Municipal Energy Independence Act shall apply to developed property located within the borders of the municipality on which property taxes are paid and on which the owners of the property are current in the payment of the property taxes.

B. The trustees of a municipal energy district authority may enter into an agreement with a county to collect repayment of any

loan made pursuant to the Oklahoma Municipal Energy Independence Act upon such terms as may be agreed to by the property owner and the municipal energy district authority.

C. Any loan made pursuant to the Oklahoma Municipal Energy Independence Act shall constitute a lien on the property which is the subject of the loan only upon the recording of a mortgage covering the property in the office of the county clerk. Any mortgage securing a loan shall be junior and inferior to all previously recorded liens or mortgages of any kind. The exclusive method of enforcing a lien for failure to repay any loan made pursuant to the Oklahoma Municipal Energy Independence Act shall be by judicial or nonjudicial foreclosure as provided by law.

D. Only appliances or energy-efficient improvements that are permanently affixed to the property shall be eligible for financing pursuant to the Oklahoma Municipal Energy Independence Act.
Added by Laws 2011, c. 103, § 5, eff. Nov. 1, 2011.

§11-25-106. Energy-efficiency audits or retrofits.

A municipal energy district authority may make grants to nonprofit organizations to perform energy-efficiency audits or retrofits on tax-exempt property.
Added by Laws 2011, c. 103, § 6, eff. Nov. 1, 2011.

§11-25-107. Participation in program - Requirements.

A municipal energy district authority shall require those property owners participating in the program to:

1. Have an energy audit conducted on the property to be improved to demonstrate the value of the project; and

2. Submit proof that the improvements at a minimum meet "Energy Star" ratings.
Added by Laws 2011, c. 103, § 7, eff. Nov. 1, 2011.

§11-26-101. Authority to purchase and regulate.

A municipal governing body shall have the power to purchase, lay out and regulate cemeteries. The powers over cemeteries which are granted to a municipal governing body in this section include, but are not limited to, cemeteries used or dedicated for interment of animal remains.
Laws 1977, c. 256, § 26-101, eff. July 1, 1978.

§11-26-102. Power to acquire and control land for cemeteries.

A municipal governing body may acquire, by purchase, donation or otherwise, and control lots or parcels of land within and without the limits of the municipality as the governing body deems necessary for cemetery purposes. When lots or parcels are so acquired, the title shall vest in the municipality. The governing body may subdivide or plat any of the lots or lands into suitable parcels for burial

purposes and make such disposition thereof as will in the judgment of the governing body best serve the purpose for which they were acquired. Any lands so acquired shall thereafter be exempt from taxation, and the governing body may pay and discharge any assessments against the lands for the improvement of streets or the construction of sewers. The governing body shall provide for the grading, fencing, ornamenting and improving of all burial and cemetery grounds owned by the municipality and the avenues leading thereto, and may construct walks and plant and protect ornamental trees and shrubs therein, and provide for paying the cost thereof. Added by Laws 1977, c. 256, § 26-102, eff. July 1, 1978.

§11-26-103. Conveyance of cemetery lots - Abandoned lots.

A. As used in this section, "lot" means a tract of land as defined in Section 1 of this act.

B. Lots in a municipal cemetery shall be conveyed by certificate signed by the mayor and countersigned by the clerk, under the seal of the municipality. The certificate shall show the price for which the lots are sold and specify that the person to whom it is issued is the owner of the lot or lots described therein by number, as laid down in the plat, for the purpose of interment. The certificate shall vest in the purchaser and heirs of the purchaser a right to the lot or lots, for the sole purpose of interment, under the regulations of the governing body or board of cemetery trustees. The certificate shall be entitled to record in the office of the county clerk of the county in which the lot is situated without further acknowledgment, and the description of lots by number shall be sufficient for the purpose of record. All abandoned lots shall revert to the municipality. Added by Laws 1977, c. 256, § 26-103, eff. July 1, 1978. Amended by Laws 2008, c. 47, § 5, eff. Nov. 1, 2008.

§11-26-104. Conveyance or devise of lot in trust.

A. As used in this section, "lot" means a tract of land as defined in Section 1 of this act.

B. Any burial lot in any cemetery owned by a municipality, or by an association incorporated for cemetery purposes under the laws of Oklahoma, may be conveyed or devised by the owner back to and held by such company, municipality, or association in perpetual trust for the purpose of its preservation as a place of burial. The lot so conveyed shall thereafter remain forever inalienable by act of the parties, but the right to use the same as a place of burial of the dead of the family of the owner and his descendants from generation to generation shall remain, unless the deed of conveyance in trust shall provide that interments in such lot shall be confined to the bodies of specified persons, in which case the lot shall be forever preserved as the burial place of the persons specified in the deed and shall never be used for any other purpose whatever. However, no

conveyance in trust shall be made without the consent of the cemetery company or association in whose cemetery the burial lot is located, or of the governing body or board of cemetery trustees of the municipality.
Added by Laws 1977, c. 256, § 26-104, eff. July 1, 1978. Amended by Laws 2008, c. 47, § 6, eff. Nov. 1, 2008.

§11-26-105. Rules and ordinances - Penalties and fines.

The governing body may pass rules and ordinances to regulate, protect, and govern the cemetery, the owners of the lots therein, visitors therein, and to punish trespassers therein. The governing body may limit the number of lots which may be owned by one person, corporation or association at the same time, and may prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; but no religious test shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or lots. The governing body may prohibit any division of the use of lots and any improper adornment thereof. The officers of the municipality shall have full jurisdiction and power to enforce such rules and ordinances as if they related to the municipality itself. Penalties and fines not exceeding One Hundred Dollars ($100.00) or thirty (30) days in jail may be imposed for violation of such rules and ordinances.
Laws 1977, c. 256, § 26-105, eff. July 1, 1978.

§11-26-106. Board of cemetery trustees - Appointment and creation.

Where a cemetery is owned by a municipality, the governing body may provide by ordinance for the creation and appointment of a board of cemetery trustees. The board of cemetery trustees shall consist of three (3) members. The term of each member shall be six (6) years, except that when the board is first appointed, one member shall serve a term of two (2) years, one member shall serve a term of four (4) years, and one member shall serve a term of six (6) years.
Laws 1977, c. 256, § 26-106, eff. July 1, 1978.

§11-26-107. Powers and duties of cemetery trustees.

The board of cemetery trustees shall have charge of and control of the municipal cemetery, and shall be authorized to:

1. Make rules and regulations governing the management, improvement and establishment of the cemetery;

2. Fix the price for which lots shall be sold or for which an interment shall be made; and

3. Appoint all officers necessary for the control and management of cemeteries, including a cemetery superintendent, subject to the approval of the municipal governing body.
Laws 1977, c. 256, § 26-107, eff. July 1, 1978.

§11-26-108. Cemetery expenses and collections.

All monies received by the board of cemetery trustees from the sale of lots or from interments or from any other source shall be paid daily to the municipal treasurer, who shall deposit the same in the municipal treasury. Expenses incurred for the upkeep, repair, and adornment of the municipal cemetery may be paid by the municipal treasurer upon proper warrants.

Amended by Laws 1984, c. 126, § 51, eff. Nov. 1, 1984.

§11-26-109. Cemetery Care Fund - Purchase of lands - Investment of fund.

In all municipally owned cemeteries where lots are sold or charges made for interments, not less than twelve and one-half percent (12.5%) of all monies received from the sale of lots and interments shall be segregated and set aside as a permanent fund to be known as the "Cemetery Care Fund". The Cemetery Care Fund principal shall be expended for purchasing lands for cemeteries and for making capital improvements as defined in Section 17-110 of this title, if necessary. The balance of the fund may be invested in the manner provided by law for investment of municipal funds. The interest from the investments shall be used for the same purposes as the principal or in improving, caring for, and embellishing the lots, walks, drives, parks, and other necessary improvements on such cemeteries.

Added by Laws 1977, c. 256, § 26-109, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 52, eff. Nov. 1, 1984; Laws 1991, c. 124, § 14, eff. July 1, 1991; Laws 1993, c. 23, § 1, eff. Sept. 1, 1993.

§11-26-110. Reports of the cemetery board of trustees.

The board of cemetery trustees shall, on the first Mondays in January and July of each year, make a full report to the municipal governing body of all lots sold, interments made, and all moneys received and expended by the board in and about the cemetery.

Laws 1977, c. 256, § 26-110, eff. July 1, 1978.

§11-26-111. Lien on cemetery lots for upkeep charges - Enforcement.

A. Any municipality which owns a cemetery, or any board of cemetery trustees of a cemetery owned by an association incorporated for cemetery purposes under the laws of Oklahoma, shall have a lien on any unused lot when a written contract provides for upkeep payments on such lot and the upkeep payments have been unpaid for a continuous period of five (5) years. Where more than one lot has been purchased in a group of lots, and at least one of the lots has been used in that group of lots, the provisions of this section shall not apply.

B. After filing the lien with the clerk of the district court in the county in which the cemetery lot is situated, the lien may be

enforced by civil action. The practice, pleading and proceedings for foreclosure in such action shall conform to the rules prescribed by the code of civil procedure as far as they may be applicable.
Laws 1977, c. 256, § 26-111, eff. July 1, 1978.

§11-26-112. Removal of remains to other gravesites - Unmarked graves.

When the bodily remains of an unknown person are discovered in an unidentified and unmarked grave of a municipally owned and operated cemetery, the remains may be removed to some other gravesite within the cemetery, at the expense of the municipality, if no record exists as to a sale or conveyance of the lot and the municipality is without knowledge that a body had been buried in the gravesite, in the event the lot is sold to another person. An application for approval of the disinterment and removal of the bodily remains shall be first filed with, and approval obtained from, the State Health Department.
Laws 1977, c. 256, § 26-112, eff. July 1, 1978.

§11-26-201. Trusts for special care of specified lots - Perpetual care fund - Use.

Donations, deposits or bequests may be made in trust for the special care of specified lots, monuments or mausoleums in any cemetery. These funds shall be segregated and set aside as a permanent fund to be known as the "Perpetual Care Fund". A separate account shall be kept of each amount so deposited, donated and bequeathed for special care of specified lots. The perpetual care fund may be invested in like manner as the cemetery care fund, and only the interest derived from the fund shall be used in the care, maintenance and repair of such lots, monuments and mausoleums, unless otherwise specified by the donor.
Laws 1977, c. 256, § 26-201, eff. July 1, 1978.

§11-26-202. Trustee of perpetual care fund - Appointment - Duties.

Any municipality which owns a cemetery, or twenty-five of the lot owners in the cemetery, may petition the district court in the county where the cemetery is situated for the appointment of a trustee to be the trustee of the perpetual care fund. The trustee of the fund shall receive the perpetual care funds, as provided in Section 26-201 of this title, and any other funds which may be donated, deposited or bequeathed to the cemetery or any part thereof, as a perpetual care fund. The trustee shall invest, manage and control the fund under the direction of the judge of the district court.
Laws 1977, c. 256, § 26-202, eff. July 1, 1978.

§11-26-203. Perpetual care fund receipts - Cemetery records.

Every trustee of a perpetual care fund shall execute and deliver to the donor a receipt showing the amount of money received, and the

use to be made of the net proceeds from the money. The receipts shall be attested by the clerk of the court granting letters of trusteeship and a copy thereof shall be signed by the trustees of the cemetery board. The receipts so attested shall then be filed with and recorded by the court clerk in a book to be known as the "Cemetery Records," in which shall be recorded all reports and other papers, including orders made by the court or judge relative to cemetery matters.
Laws 1977, c. 256, § 26-203, eff. July 1, 1978.

§11-26-204. Perpetual care fund loans - Approval.
The perpetual care fund trustee may loan moneys received by him under the direction and with the approval of the court, but only as such loans may be secured by first mortgages upon Oklahoma real estate. No loan shall be made or approved unless it be made to appear to the court that the real estate is ample security for the loan applied for, and that the title to the real estate is good of record and in fact in the party making application for the loan.
Laws 1977, c. 256, § 26-204, eff. July 1, 1978.

§11-26-205. Bond and oath of perpetual care fund trustee.
The trustee of the perpetual care fund, before entering on the discharge of his duties or at any time thereafter when required by the court or judge, shall give bond in such amount as may be required by the court, to be approved by the court clerk, conditioned for the faithful discharge of the duties imposed upon the trustee by law. The trustee shall take and subscribe an oath the same in substance as the condition of the bond. The oath and bond shall be filed with the court clerk.
Laws 1977, c. 256, § 26-205, eff. July 1, 1978.

§11-26-206. Clerk to advise court on sufficiency of trustee's bond.
The court clerk, at the time of filing each receipt as provided in Section 26-203 of this title, shall immediately advise the court or judge as to the amount of the principal fund in the hands of the trustee, the amount of bond filed, and whether or not the bond is good and sufficient for the amount given. The court or judge may require, if it seems best, a new and additional bond of the perpetual care fund trustee.
Laws 1977, c. 256, § 26-206, eff. July 1, 1978.

§11-26-207. Payment of trustee's expenses.
The trustee of a perpetual care fund shall not be entitled to receive any compensation for services rendered, but may, out of the income received, pay all proper items of expense incurred in the performance of his duties, including cost of bond, if any.
Laws 1977, c. 256, § 26-207, eff. July 1, 1978.

§11-26-208. Trustee reports.

Every perpetual care fund trustee shall make a full report to the district court of his doings in the matter of his trusteeship in the months of January and July following his appointment, and in January and July of each successive year. In each of the reports he shall apportion the net proceeds received from the sum total of the permanent fund and make proper credit to each of the separate funds assigned to him in trust.

Laws 1977, c. 256, § 26-208, eff. July 1, 1978.

§11-26-209. Removal or death of trustee.

A perpetual care fund trustee may be removed by the court or judge thereof at any time for cause. In the event of removal or death, the court or judge must appoint a new trustee and require his predecessor or his personal representative to make full accounting for all the property belonging to the trustee.

Laws 1977, c. 256, § 26-209, eff. July 1, 1978.

§11-27-101. Creation of municipal court not of record.

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

Laws 1977, c. 256, § 27-101, eff. July 1, 1978.

§11-27-102. Resolution of governing body.

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

Amended by Laws 1988, c. 21, § 1, eff. Nov. 1, 1988. d

§11-27-103. Jurisdiction.

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

Laws 1977, c. 256, § 27-103, eff. July 1, 1978.

§11-27-104. Judges.

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

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

1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county; or

2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or

3. Any suitable person who resides in the county in which the municipality is located or in an adjacent county.

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

D. If the judge of the municipal court is not a licensed attorney and has not complied with the education requirements pursuant to subsection F of this section and the education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the trial shall be to the court, and the court may not impose a fine of more than Fifty Dollars ($50.00), and may not order the defendant imprisoned except for the nonpayment of fines or costs or both.

E. If the judge of the municipal court is not a licensed attorney but has complied with the education requirements of subsection F of this section and the education requirements pursuant

to Section 18-101 of Title 47 of the Oklahoma Statutes, the maximum fine that may be imposed shall be Five Hundred Dollars ($500.00).

F. In order to impose the fine authorized by subsection E of this section, a nonlawyer judge must, within a period not to exceed the preceding reporting period in this state for mandatory continuing legal education, complete courses held for municipal judges which have been approved by the Oklahoma Bar Association Mandatory Legal Education Commission for at least six (6) hours of continuing education credit. Verification may be made by a statement of attendance signed by the course registration personnel.

Added by Laws 1977, c. 256, § 27-104, eff. July 1, 1978. Amended by Laws 1982, c. 157, § 2; Laws 1983, c. 293, § 2, operative Oct. 1, 1983; Laws 1984, c. 32, § 1, eff. Nov. 1, 1984; Laws 1996, c. 245, § 1, eff. Nov. 1, 1996; Laws 2004, c. 173, § 2, eff. Nov. 1, 2004; Laws 2005, c. 386, § 2, eff. Nov. 1, 2005.

§11-27-105. Prohibition on change of venue - Disqualification of judge.

A. No change of venue shall be allowed from any municipal court, but the judge of the municipal court may be disqualified under the same terms and conditions as are now provided by law for courts of record.

B. In the event of an ethical disqualification by a municipal judge, the senior municipal judge may appoint, on a case-by-case basis, a sitting municipal judge in another municipality within the same county or an adjacent county to act as a special judge for the purposes of hearing the case.

Added by Laws 1977, c. 256, § 27-105, eff. July 1, 1978. Amended by Laws 2012, c. 54, § 1, emerg. eff. April 16, 2012.

§11-27-106. Acting judge - Alternate judge - Compensation.

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

Laws 1977, c. 256, § 27-106, eff. July 1, 1978.

§11-27-107. Vacancies in office of judge.

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

Laws 1977, c. 256, § 27-107, eff. July 1, 1978.

§11-27-108. Municipal attorney as prosecutor.

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

Amended by Laws 1984, c. 126, § 53, eff. Nov. 1, 1984.

§11-27-109. Clerk of court - Duties.

The municipal clerk of any municipality where a municipal court is established, or a designated deputy shall be the clerk of the municipal court unless the governing body establishes or authorizes a position of chief municipal court officer to serve as court clerk.

The court clerk shall have authority to carry out the duties of the position as required by law; provided, that the person who serves as court clerk may separately perform other duties for the municipality. The clerk of the court shall:

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

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

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

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

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

Added by Laws 1977, c. 256, § 27-109, eff. July 1, 1978. Amended by Laws 1991, c. 124, § 15, eff. July 1, 1991; Laws 1995, c. 166, § 2, emerg. eff. May 4, 1995.

§11-27-110. Court marshal - Duties.

The municipal governing body, upon the recommendation of the judge of the municipal court, may designate any appropriate person

who is a resident of the municipality to serve as marshal, and in the absence of such a designation, the chief of police or corresponding officer of the municipality shall be ex officio marshal of the court. The marshal shall execute any writs and other process directed to him, except as herein otherwise provided, and such duty may be performed by any deputy marshal or by any members of the police force of the municipality, as the case may be.
Laws 1977, c. 256, § 27-110, eff. July 1, 1978.

§11-27-111. Bond of clerk and judge - Form.

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

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

Dated at _____, this _____ day of _____, 19__.

_____
(Signed)

B. The municipal governing body may provide that the judge, the alternate judge, and an acting judge, or any of them, shall give a bond to the governing body of the municipality where the court is established. If a bond is required, it shall be in an amount to be fixed by the governing body. It shall be conditioned in the same manner as the bond that is required of the clerk of the court, and it shall be approved by the governing body.
Laws 1977, c. 256, § 27-111, eff. July 1, 1978.

§11-27-111.1. Repealed by Laws 2006, c. 255, § 4, eff. Nov. 1, 2006.

§11-27-112. Fees, fines and forfeitures - Dispositions.

All of the fees, fines and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make a receipt for the fees, fines and forfeitures collected which shall be retained by the municipality together with a detailed statement of all costs, the style of the case in which they were paid, and the name of the defendant. The receipt and detailed statement retained by the municipality may be saved and produced in an electronic format.

Added by Laws 1977, c. 256, § 27-112, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 54, eff. Nov. 1, 1984; Laws 2019, c. 104, § 1, eff. Nov. 1, 2019.

§11-27-113. Procedure - Judicial notice of statutes and ordinances - Writs and process - Service of arrest warrant.

Except as otherwise provided for by law, the code of procedure in the municipal court shall be the same as is provided for by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the municipality in which it is located. Writs and processes of the court may be issued by the judge or clerk thereof to any proper officer. All writs and processes of the municipal court in which a violation of a municipal ordinance is charged shall be directed to the chief of police of the municipality, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the municipality or county sheriff may serve an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee of Twenty Dollars ($20.00).

Amended by Laws 1982, c. 133, § 2; Laws 1984, c. 126, § 55, eff. Nov. 1, 1984; Laws 1990, c. 259, § 1, eff. Sept. 1, 1990.

§11-27-114. Rules for conduct of court business.

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

Laws 1977, c. 256, § 27-114, eff. July 1, 1978.

§11-27-115. Prosecutions by verified complaint - Style.

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

Amended by Laws 1984, c. 126, § 56, eff. Nov. 1, 1984.

§11-27-115.1. Prosecutions by verified complaint - Means of verification.

Notwithstanding other provisions of law, when a law enforcement officer issues a citation or ticket as the basis for a complaint or information, for an offense against a municipal ordinance which is

declared to be a misdemeanor, the citation or ticket shall be properly verified if:

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

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

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

2. The citation or ticket states the specific facts supporting the criminal charge and the ordinance or statute alleged to be violated; or

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

Added by Laws 1992, c. 68, § 2, eff. Sept. 1, 1992.

§11-27-116. Arraignment - Fines in lieu of appearance.

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

Laws 1977, c. 256, § 27-116, eff. July 1, 1978.

§11-27-117. Arrests - Release by signing citation - Bail - Amount and conditions - Temporary cash bond.

A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any traffic ordinance for which Section 27-117.1 of this title does not apply, or is arrested for the violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release said person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not

appear in response to the citation, or the person is arrested for an offense against a person or property. If said person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled.

If the arrested resident is not released by being permitted to sign a citation as provided for in this subsection, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance. A municipality may prescribe a fine for up to the maximum amount authorized by courts not of record for failure of a person to have a valid driver's license when charged with a traffic violation.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which Section 27-117.1 of this title does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

C. The amount and conditions of bail granted pursuant to the provisions of subsections A and B of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release on personal recognizance. The amount of bail for each offense shall not exceed the maximum fine plus court costs, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed One Thousand Dollars ($1,000.00). In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police or his designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not exceed the maximum fine provided for by ordinance for each offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of the cash bond shall not exceed One Thousand Dollars ($1,000.00). The court official, chief of police or his designated representative is authorized, subject to such conditions as shall be prescribed by the judge, to release a resident of the municipality on personal recognizance. Added by Laws 1977, c. 256, § 27-117, eff. July 1, 1977. Amended by Laws 1978, c. 261, § 1, eff. July 1, 1978; Laws 1984, c. 126, § 57, eff. Nov. 1, 1984; Laws 1986, c. 250, § 7, operative July 1, 1987; Laws 1997, c. 251, § 6, eff. Nov. 1, 1997.

§11-27-117.1. Arrest for misdemeanor traffic violation other than parking or standing - Bail.

If a resident or nonresident of a municipality having a municipal court is arrested by a law enforcement officer solely for a misdemeanor violation of a traffic ordinance, other than an ordinance

pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed One Thousand Dollars ($1,000.00).
Added by Laws 1986, c. 250, § 8, operative July 1, 1987. Amended by Laws 1993, c. 15, § 1, eff. Sept. 1, 1993; Laws 1997, c. 251, § 7, eff. Nov. 1, 1997.

§11-27-118. Failure to appear according to terms of bond - Forfeiture.

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond, given by a bail bondsman as defined in Section 1301 of Title 59 of the Oklahoma Statutes, either for hearing, arraignment, trial, or judgment, or upon any other occasion when the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in Section 1332 of Title 59 of the Oklahoma Statutes whereby the municipal court clerk shall issue the required notices; or

2. a. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefor, and

   b. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court clerk shall treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of Section 1332 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes.

B. Court costs shall be collectible from the proceeds of a forfeited bond.

Added by Laws 1977, c. 256, § 27-118, eff. July 1, 1978. Amended by Laws 1993, c. 265, § 1, eff. July 1, 1993; Laws 1994, c. 49, § 1, eff. Sept. 1, 1994; Laws 1995, c. 166, § 3, emerg. eff. May 4, 1995.

§11-27-119. Jury trials - Qualifications of jurors.

In all prosecutions in the municipal court for any offense for which the municipality, with the concurrence of the court, seeks imposition of a fine of more than Five Hundred Dollars ($500.00), excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14-109 and 14-110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Fifty Dollars ($50.00). In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

Added by Laws 1977, c. 256, § 27-119, eff. July 1, 1978. Amended by Laws 1982, c. 157, § 3; Laws 1983, c. 293, § 3, operative Oct. 1, 1983; Laws 1995, c. 61, § 1, eff. Nov. 1, 1995; Laws 1997, c. 251, § 8, eff. Nov. 1, 1997; Laws 2006, c. 38, § 1, eff. Nov. 1, 2006.

§11-27-120. Selection and summons of jurors.

Jurors in the municipal court shall be selected pursuant to this section under the same terms and conditions as are provided for by law for the district courts, or in the alternative, pursuant to Section 18.1 of Title 38 of the Oklahoma Statutes. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number of jurors in the same manner as is provided by law for the district court until the number requested, who from their addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the district court for a stated number of additional jurors if, after allowance of claimed statutory exemptions, the listed number is found to be insufficient. Summons of the prospective jurors shall be issued as set out by ordinance, and may be served in person by the chief of police or any member of the police force of the

municipality, or may be served by the clerk of the municipal court by mail.
Added by Laws 1977, c. 256, § 27-120, eff. July 1, 1978. Amended by Laws 2003, c. 225, § 1, eff. Nov. 1, 2003.

§11-27-121. Fees and mileage of jurors and witnesses.

The municipal governing body shall determine by ordinance the fees and mileage that shall be paid to jurors and witnesses in a municipal court. However, no witness fee shall be paid to any police or peace officer. The jury fee and mileage due jurors and witnesses shall be paid as provided by ordinance.
Laws 1977, c. 256, § 27-121, eff. July 1, 1978.

§11-27-122. Enforcement of payment of fines or costs by imprisonment - Persons unable to pay.

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

1. By imprisonment until the same shall be satisfied at the rate of Twenty-five Dollars ($25.00) per day; or

2. In the same manner as is prescribed in subsection B of this section for a defendant who is without means to make such payment.

B. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in the county where the situs of the municipal government is located, where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. The same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.
Added by Laws 1977, c. 256, § 27-122, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 2, eff. Oct. 1, 1980; Laws 1987, c. 173, § 4, eff. Nov. 1, 1987; Laws 2004, c. 173, § 3, eff. Nov. 1, 2004.

§11-27-122.1. Execution of sentences of municipal court.

A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm, or workhouse of the municipality, in the discretion of the court, for the time specified in the sentence; provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

B. The judge of the municipal court imposing a judgment and sentence, at the judge's discretion, is empowered to modify, reduce, suspend, or defer the imposition of a sentence or any part thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence under terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the terms of probation, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty, or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

C. The judge of the municipal court may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of this period of time the judge may allow the municipal attorney to amend the charge to a lesser offense.

D. If a deferred sentence is imposed, an administrative fee not to exceed Five Hundred Dollars ($500.00) may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law.

Added by Laws 1987, c. 173, § 1, eff. Nov. 1, 1987. Amended by Laws 1990, c. 69, § 1, eff. Sept. 1, 1990; Laws 1999, c. 412, § 2, eff. Nov. 1, 1999; Laws 2004, c. 173, § 4, eff. Nov. 1, 2004.

§11-27-122.2. Community service in lieu of fine or in conjunction with imprisonment - Violation of community service conditions.

Whenever any person is convicted in municipal court for violation of a municipal ordinance, the court may order the defendant to a term of community service or remedial action in lieu of fine or in conjunction with imprisonment. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

Added by Laws 1989, c. 255 § 3, emerg. eff. May 19, 1989. Amended by Laws 1990, c. 69, § 2, eff. Sept. 1, 1990.

§11-27-123. Suspension of judgment or costs - Reconfinement.

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

cause a warrant to be issued for any person so released if it shall be made to appear to the judge that such person:

1. Has been guilty of the violation of any law after his release;

2. Is habitually associating with lewd or vicious persons; or

3. Is indulging in vicious habits.

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

Laws 1977, c. 256, § 27-123, eff. July 1, 1978.

§11-27-124. Supervision of juveniles on parole or probation.

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

Laws 1977, c. 256, § 27-124, eff. July 1, 1978.

§11-27-125. Contempt of court.

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

Laws 1977, c. 256, § 27-125, eff. July 1, 1978.

§11-27-126. Costs and fees.

Except as provided in Section 14-111 of this title and subject to other limitations or exceptions imposed by law, the municipal governing body shall determine by ordinance the court costs and fees that may be charged and collected by the clerk of the court. Court costs shall not exceed the sum of Thirty Dollars ($30.00) plus the fees and mileage of jurors and witnesses. The clerk of the court is authorized to charge and collect the fees as determined by the municipal body.

Added by Laws 1977, c. 256, § 27-126, eff. July 1, 1978. Amended by Laws 1987, c. 173, § 2, eff. Nov. 1, 1987; Laws 1999, c. 412, § 3, eff. Nov. 1, 1999; Laws 2006, c. 61, § 3, eff. July 1, 2006; Laws 2009, c. 258, § 2, emerg. eff. May 22, 2009.

§11-27-127. Prosecution for same offense in another court prohibited.

When a defendant has been in jeopardy for the same or any lesser included offense in a municipal court or district court, he shall not

be prosecuted in another court for the same or a lesser included offense.
Laws 1977, c. 256, § 27-127, eff. July 1, 1978; Laws 1980, c. 247, § 3, eff. Oct. 1, 1980.

§11-27-128. Writs of mandamus, prohibition and certiorari.

The district court in each county wherein a municipal court is established shall have the same jurisdiction to issue to the municipal court writs of mandamus, prohibition and certiorari as the Supreme Court now has to issue such writs to courts of record.
Laws 1977, c. 256, § 27-128, eff. July 1, 1978.

§11-27-129. Appeals.

A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located, within ten (10) days from the date of the final judgment, a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial if the sentence imposed for the offense was a fine of more than Five Hundred Dollars ($500.00), plus costs, fees, and assessments.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on the docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than One Hundred Dollars ($100.00) nor more than twice the amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

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

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court.
Added by Laws 1977, c. 256, § 27-129, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 4, eff. Oct. 1, 1980; Laws 1982, c. 157, § 4; Laws 1983, c. 293, § 4, operative Oct. 1, 1983; Laws 1995, c. 61, § 2, eff. Nov. 1, 1995; Laws 1997, c. 251, § 9, eff. Nov. 1, 1997; Laws

2004, c. 363, § 1, eff. Nov. 1, 2004; Laws 2015, c. 2, § 1, eff. Nov. 1, 2015.
NOTE: Laws 2004, c. 173, § 5 repealed by Laws 2005, c. 386, § 5, eff. Nov. 1, 2005.

§11-27-130. District attorney to defend appeals in certain cases.

The district attorney, and his assistants, shall defend any appeal from a municipal court in his district that has no municipal attorney who is paid a salary in excess of a rate of Three Thousand Six Hundred Dollars ($3,600.00) per annum.
Laws 1977, c. 256, § 27-130, eff. July 1, 1978. d

§11-27-131. Orders relative to procedures and practices by Supreme Court.

The Supreme Court is authorized to issue orders of statewide application relative to procedures in and practices before the municipal courts and appeals therefrom, subject to the provisions of this article, and under its general superintending control of all inferior courts, shall have the power and authority by and through the Chief Justice of the Supreme Court, to call annual conferences of the judges of the municipal courts of Oklahoma to consider matters calculated to bring about a speedier and more efficient administration of justice.
Laws 1977, c. 256, § 27-131, eff. July 1, 1978.

§11-27-132. Appeal to Court of Criminal Appeals.

An appeal may be taken to the Court of Criminal Appeals from the final judgment or order of a district court in an appeal from a final judgment of a municipal court in the same manner and to the same extent that appeals are taken from a district court to the Court of Criminal Appeals.
Added by Laws 1978, c. 248, § 1, eff. July 1, 1978.

§11-28-101. Municipal criminal courts of record - Cities with population over 65,000 - Resolution.

A. In cities having a population of more than sixty-five thousand (65,000) inhabitants, as determined by the latest federal census, there is hereby created a "Municipal Criminal Court of Record of the City of _____", subject to the restrictions of subsection B of this section. References in Sections 28-101 through 28-128 of this title to the municipal criminal court of record shall mean the courts established by the provisions of this article in cities over sixty-five thousand (65,000) population.

B. Before a municipal criminal court of record not in existence before November 1, 2004, may be created, the municipal governing body shall determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates creating

a court of record. If such a resolution is not adopted, the criminal court of the municipality shall remain a court not of record. The governing body shall cause a certified copy of the resolution to be filed in the office of the county clerk of each county in which the municipality is located. The resolution and the filing thereof shall be judicially noticed in all courts of this state. The provisions of this subsection shall not apply to any municipal criminal court of record created prior to November 1, 2004, and such courts shall have all the powers and duties heretofore provided for such courts. Added by Laws 1977, c. 256, § 28-101, eff. July 1, 1978. Amended by Laws 2004, c. 363, § 2, eff. Nov. 1, 2004.

§11-28-102. Jurisdiction of criminal court of record - Jury trial - Maximum punishment - Double jeopardy.

A. The municipal criminal courts of record shall have original jurisdiction to hear and determine all prosecutions when a violation of any of the ordinances of the city where the court is established is charged, as provided by Article VII, Section 1 of the Oklahoma Constitution.

B. In cases when the penalty provided for the violation of an ordinance is a fine in the amount of more than Five Hundred Dollars ($500.00), excluding court costs, or by imprisonment, or by both such fine and imprisonment, all persons charged before such municipal criminal court of record shall be entitled to a trial by jury, unless waived by the defendant. Judgment and sentence imposed by the judge shall be as effective as if the same had been rendered and imposed by a jury.

C. The maximum punishment that may be levied in any municipal criminal court of record is a fine not exceeding One Thousand Two Hundred Dollars ($1,200.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment. Provided, the maximum punishment that may be levied in any municipal criminal court of record for violations of municipal traffic ordinances not including ordinances relating to driving a motor vehicle under the influence of alcohol or drugs is a fine not exceeding One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. If a fine exceeding Seven Hundred Fifty Dollars ($750.00) is imposed for an alcohol-related or drug-related traffic offense, the amount in excess of Seven Hundred Fifty Dollars ($750.00) shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. Provided, further that any municipal criminal court of record may levy a fine not to exceed One Thousand Dollars ($1,000.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment for violations of

municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Provided, further, that for violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, any municipal criminal court of record in cities with more than two hundred thousand (200,000) in population may levy an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment, as well as a term of community service of not less than forty (40) nor more than eighty (80) hours. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. A defendant who has been in jeopardy for the same or any lesser included offense in the municipal criminal court of record or district court shall not be prosecuted in any other court for the same or a lesser included offense.

Added by Laws 1977, c. 256, § 28-102, eff. July 1, 1978. Amended by Laws 1982, c. 157, § 5; Laws 1983, c. 293, § 5, operative Oct. 1, 1983; Laws 1990, c. 141, § 2, eff. Sept. 1, 1990; Laws 1995, c. 61, § 3, eff. Nov. 1, 1995; Laws 1995, c. 198, § 1, eff. Nov. 1, 1995; Laws 1997, c. 51, § 1, eff. Nov. 1, 1997; Laws 1998, c. 234, § 2, eff. Nov. 1, 1998; Laws 1999, c. 217, § 3, eff. Nov. 1, 1999; Laws 2002, c. 120, § 6, emerg. eff. April 19, 2002; Laws 2004, c. 173, § 6, eff. Nov. 1, 2004; Laws 2006, c. 61, § 4, eff. July 1, 2006; Laws 2007, c. 1, § 14, emerg. eff. Feb. 22, 2007.

NOTE: Laws 2006, c. 38, § 2 repealed by Laws 2007, c. 1, § 15, emerg. eff. Feb. 22, 2007.

§11-28-102a. Fines for violations relating to prostitution - Percentage forwarded to city - county health department.

In municipalities that have a population of more than two hundred thousand (200,000), that have a municipal court of record, and that are located within a county having a population greater than four hundred thousand (400,000), One Hundred Dollars ($100.00) of each fine collected for violations of municipal ordinances relating to prostitution shall be forwarded by the city clerk or other appropriate finance official to the city-county health department serving the county.

Added by Laws 2002, c. 348, § 6, emerg. eff. May 30, 2002.

§11-28-102b. Alcohol and drug abuse evaluation and assessment program.

In cases where a person has been convicted of violating a municipal ordinance relating to driving a motor vehicle under the influence of alcohol or other intoxicating substance, the person shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation and assessment program offered by a certified assessment agency or certified assessor for the purpose of evaluating and assessing the receptivity to treatment and prognosis of the person. The municipal court shall order the person to reimburse the agency or assessor for the evaluation and assessment. The fee for an evaluation and assessment shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation and assessment shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the municipal court. The agency or assessor shall, within seventy-two (72) hours from the time the person is evaluated and assessed, submit a written report to the municipal court for the purpose of assisting the municipal court in its final sentencing determination. If such report indicates that the evaluation and assessment shows that the defendant would benefit from a ten-hour or twenty-four-hour alcohol and drug substance abuse course or a treatment program or both, the municipal court shall, as a condition of any sentence imposed require the person to follow all recommendations identified by the evaluation and assessment and ordered by the municipal court. Any evaluation and assessment report submitted to the municipal court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from review by the general public. Nothing contained in this section shall be construed to prohibit the municipal court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the municipal court to obtain the evaluation and assessment required by this section. If the defendant fails or refuses to comply with an order of the municipal court to obtain the evaluation and assessment, the Department of Public Safety shall not reinstate driving privileges until the defendant has complied in full with such order.
Added by Laws 2010, c. 219, § 2, eff. Nov. 1, 2010.

§11-28-103. Judges and clerks.

The city governing body may appoint and fix the compensation of one or more judges of the municipal criminal court of record, as may be required, and designate one as a presiding judge. Each judge shall possess the qualifications now required by law to be possessed by associate judges of the district court. The city governing body may appoint or otherwise provide for appointment of a clerk of the municipal criminal court of record and one or more deputy clerks and fix their compensation. The judge shall serve for a term of two (2) years, expiring on a date fixed by ordinance, and until his successor

is appointed and qualified, unless sooner removed by the vote of a majority of all members of the governing body for such cause as is provided by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term.
Added Laws 1977, c. 256, § 28-103, eff. July 1, 1978.

§11-28-104. Powers and duties of judge.

A judge of the municipal criminal court of record shall have power to administer oaths, keep and preserve the records of the court, certify transcripts and other records and shall have and possess such other general powers as are possessed by the district judge. The judge shall also approve all recognizances and bonds to which persons charged, or convicted, may be admitted and shall determine and fix the amount thereof.
Laws 1977, c. 256, § 28-104, eff. July 1, 1978.

§11-28-105. Disqualification, disability or absence of judge.

In the event of the disqualification, disability or absence of a regular judge of the municipal criminal court of record, the city governing body shall have power to appoint a special judge to sit for the duration of such disqualification, disability or absence.
Laws 1977, c. 256, § 28-105, eff. July 1, 1978.

§11-28-106. Duties of clerk - Certificate as prima facie proof.

The clerk of the municipal criminal court of record shall keep and preserve the records of all proceedings had in the court, shall keep a docket, and shall collect and receive or cause to be collected and received all fines, costs, bond forfeitures and other monies properly receivable by the clerk and shall account for the same to the city governing body. The governing body may authorize the appropriate finance official of the city by ordinance to collect and receive all fines, costs, bond forfeitures and other monies properly received by the clerk. When the clerk collects and receives such monies, the clerk shall pay or cause to be paid all such sums of money to the appropriate finance official of the city as the governing body may prescribe. It shall be the duty of the clerk to certify and authenticate all transcripts, cases and other records of the court and the certificate of the clerk shall be prima facie proof of the correctness of the copy of the document or record authenticated.
Added by Laws 1977, c. 256, § 28-106, eff. July 1, 1978. Amended by Laws 1992, c. 285, § 1, emerg. eff. May 25, 1992; Laws 1995, c. 166, § 4, emerg. eff. May 4, 1995.

§11-28-107. Marshal of court.

The administrative head of the municipality, upon recommendation of the judge of the municipal court, may designate any appropriate

person to serve as marshal, and in the absence of such a designation, the chief of police or corresponding officer of the municipality shall be ex officio marshal of the court. The marshal shall execute all writs and other processes directed to him, except as otherwise provided, and such duty may be performed by any deputy marshal or by any member of the police force of the municipality, as the case may be.
Amended by Laws 1986, c. 250, § 9, emerg. eff. June 13, 1986.

§11-28-108. Reporter.

A. The presiding judge of the municipal criminal court of record may recommend to the governing body of the city the appointment of a suitable and proper person as court reporter, whose duty it shall be to correctly take and record all of the testimony and proceedings had upon the trial or cases when required by either party. The city governing body shall fix the compensation to be allowed the court reporter. Such reporter may also perform such other clerical duties as the city governing body and judge and clerk of the court may require and shall have power to certify all transcripts and records of evidence and proceedings taken by him.

B. The court reporter, before entering upon the duties of his or her office, shall be duly sworn in open court faithfully to perform the duties of the office.

C. The reporter shall not receive any fees from the city other than salary but shall receive the same fees for transcribing the testimony and proceedings from other parties that are received by reporters of the district court for like services.
Laws 1977, c. 256, § 28-108, eff. July 1, 1978.

§11-28-109. Prosecuting officers.

The city attorney or municipal counselor and his assistants shall be the prosecuting officers of the municipal criminal court of record and the relation which they bear to the court shall be the same as that borne to the district court by the district attorney. They shall have full power to prosecute violations of any ordinance of the city in the municipal criminal court of record and shall have power to prosecute and resist appeals and proceedings in error or review from the municipal criminal court of record.
Laws 1977, c. 256, § 28-109, eff. July 1, 1978.

§11-28-110. Office of public defender.

The city governing body may create the office of public defender. The public defender shall be charged upon order of any judge of the municipal criminal court of record with the protection of the rights of any defendant charged with violation of any ordinance in the court. The city governing body may provide for necessary office

supplies and equipment and arrange for sufficient office space in public buildings.
Laws 1977, c. 256, § 28-110, eff. July 1, 1978.

§11-28-111. Qualifications of public defender - Appointment and tenure - Salary - Legal aid.

A. The office of public defender shall be assumed by an attorney or attorneys authorized to practice law in Oklahoma. Said attorneys shall be appointed by the judges of the municipal criminal court of record and serve at the pleasure of the judges or shall be appointed and removed as provided by the city charter. The salary of the municipal public defender shall be set by the city governing body.

B. The city governing body and/or the presiding or chief judge of the municipal criminal court of record may make suitable arrangements with a legal aid society for representation of indigents in lieu of appointing a municipal public defender.
Laws 1977, c. 256, § 28-111, eff. July 1, 1978.

§11-28-112. Determination of need for public defense - Appeals.

The judges of the municipal criminal court of record shall hold such hearing as they deem necessary to determine if an individual is an indigent and entitled to representation at public expense. If an indigent represented by the municipal public defender or legal aid society seriously believes that he has just cause for an appeal, the attorney for said indigent shall specify those portions of the record essential for said appeal and the judge of the court may order a transcript prepared for such appeal at public expense.
Laws 1977, c. 256, § 28-112, eff. July 1, 1978. d

§11-28-113. Commencement of prosecution - Style – Procedure – Schedule of fines.

A. All prosecutions commenced in a municipal criminal court of record shall be by information, pursuant to Section 16-108 of Title 47 of the Oklahoma Statutes, for traffic offenses and by information as in the district courts in other cases, which shall be subscribed by the person making complaint and shall be verified before a judge, the court clerk, or a deputy court clerk. All prosecutions for the violation of municipal ordinances shall be styled, "The City of _____ (naming the municipality) vs. _____ (naming the person or persons charged)".

B. Upon receipt of a traffic ticket or complaint by the court clerk, other than a traffic ticket which has been signed by the arrested person as a plea of guilty, the court clerk shall either prepare a copy of the ticket or complaint and deliver the original or duplicate original to the municipal attorney, or record the ticket on a list maintained in the clerk's office and deliver the ticket to the municipal attorney for his disposition. After disposition of the

ticket by the municipal attorney, the name shall be removed from the list by the court clerk. A traffic ticket or complaint that is certified by the arresting officer, the complainant, or the municipal attorney, shall constitute an information against the person arrested and served with the traffic ticket or complaint. The ticket or complaint shall be endorsed by the municipal attorney before it is filed with the court clerk; except if the person arrested and served with a traffic ticket or complaint either at the time he is arrested or at a subsequent time shall indicate in writing on the ticket or complaint, above his signature, that he elects to plead guilty to the violation charged, the traffic ticket or complaint shall be filed with the court clerk, as an information, without the endorsement of the municipal attorney, and it shall be the duty of the court clerk to notify the municipal attorney as to the fact of such filing.

C. The municipal governing body, by ordinance, may prescribe a schedule of fines for nonjury cases which a defendant may pay in lieu of an appearance before the municipal court, and such payment shall constitute a final determination of the cause against the defendant; provided, however, this subsection shall not apply to those offenses for which the penalty is a fine of more than Five Hundred Dollars ($500.00).

Added by Laws 1977, c. 256, § 28-113, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 59, eff. Nov. 1, 1984; Laws 1999, c. 217, § 2, eff. Nov. 1, 1999; Laws 2006, c. 38, § 3, eff. Nov. 1, 2006.

§11-28-113.1. Prosecutions by verified complaint - Means of verification - Signature.

A. Notwithstanding other provisions of law, when a law enforcement officer issues a citation or ticket as the basis for a complaint or information, for an offense against a municipal ordinance which is declared to be a misdemeanor, the citation or ticket shall be properly verified if:

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

"I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true." Such a subscription by an issuing officer, in all respects, shall constitute a sworn statement, as if sworn to upon an oath administered by an official authorized by law to administer oaths; and

2. The citation or ticket states the specific facts supporting the criminal charge and the ordinance or statute alleged to be violated; or

3. A complainant verifies by oath, subscribed on the citation, ticket or complaint, that he has read the information, knows the facts and contents thereof and that the facts supporting the criminal

charge stated therein are true. For purposes of such an oath and subscription, any law enforcement officer of the state, county or municipality of the State of Oklahoma issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

B. As used in this section, the term "signature" shall include a digital or electronic signature, as defined in Section 15-102 of Title 12A of the Oklahoma Statutes.

Added by Laws 1992, c. 68, § 3, eff. Sept. 1, 1992. Amended by Laws 2008, c. 179, § 1, eff. Nov. 1, 2008.

§11-28-114. Procedures upon arrest.

A. Except as otherwise provided in this section, if a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any ordinance for which Section 28-114.1 of this title does not apply, or is arrested for violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release said person if it reasonably appears to the officer that the person may cause injury to self or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If said person fails to appear in response to the citation, a warrant shall be issued for the person's arrest and the person's appearance shall be compelled.

If the arrested resident is not released by being permitted to sign a citation as provided for in this subsection, the resident shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance. A municipality may prescribe a fine for up to the maximum amount authorized by courts not of record for failure of a person to have a valid driver license when charged with a traffic violation.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which Section 28-114.1 of this title does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

C. The amount and conditions of bail granted pursuant to the provisions of subsections A and B of this section shall be determined by the judge, within the limitation prescribed by this section, who shall prescribe rules for the receipt of bail and for the release on personal recognizance. In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police or the chief's designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond in a

sufficient amount to secure the appearance of the accused. Except as provided in this subsection, cash bond shall not exceed the maximum fine provided for by ordinance for each offense charged. The court official, chief of police or the chief's designated representative is authorized, subject to such conditions as shall be prescribed by the judge or by law, to release a resident of the municipality on personal recognizance. Provided, however, that a person arrested in a municipality for violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, shall not be released on personal recognizance.
Added by Laws 1977, c. 256, § 28-114, eff. July 1, 1978. Amended by Laws 1982, c. 133, § 1; Laws 1984, c. 126, § 58, eff. Nov. 1, 1984; Laws 1986, c. 250, § 10, operative July 1, 1987; Laws 2002, c. 120, § 7, emerg. eff. April 19, 2002.

§11-28-114.1. Arrest for misdemeanor traffic violation other than parking or standing - Bail.

If a resident or nonresident of a municipality served by a municipal court is arrested by a law enforcement officer solely for a misdemeanor violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in Section 2 of this act. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense.
Added by Laws 1986, c. 250, § 11, operative July 1, 1987. Amended by Laws 1993, c. 15, § 2, eff. Sept. 1, 1993.

§11-28-115. Composition of jury - Selection, empanelling and qualification.

A jury for the trial of cases in the municipal criminal court of record shall consist of six (6) persons who shall be selected, empanelled and qualified in the same manner that jurors are selected, empanelled and qualified in the district court.
Laws 1977, c. 256, § 28-115, eff. July 1, 1978.

§11-28-116. Jury list and jury boxes.

A. Upon written request of the presiding judge of the municipal criminal court of record for a stated number of jurors to the presiding judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel the requested number of jurors in the same manner as is provided by the law for the district court, and to prepare a list of the names drawn and certify such list to the judge of the municipal criminal court of record. Upon receipt of such jury list by the judge of said court, the same shall be filed in the records of the court and the judge or clerk shall thereupon write the name of each person upon such list upon a separate slip of paper of uniform size and color and place the same in a box in the same manner as required by law in the preparation of jury boxes in the district court; except that the box wherein the names of jurors of the court shall be kept shall be locked with two (2) keys, one of which shall be retained and kept by the judge of the municipal court and the other by the chief of police of the city.

B. The judge of the court shall ascertain if any of the prospective jurors reside outside the corporate limits of the city and shall not summon for jury duty any nonresident of the city.
Laws 1977, c. 256, § 28-116, eff. July 1, 1978.

§11-28-117. Drawing of panel.

Upon order of the presiding judge, the clerk, or a judge, and the chief of police of the city shall draw the names of jurors from the jury box, in such number as may be ordered by the presiding judge, in the same manner as is provided by law for the drawing of names to fill a jury panel in the district court by the district judge and sheriff of the county.
Laws 1977, c. 256, § 28-117, eff. July 1, 1978.

§11-28-118. When regular panel drawn.

A regular jury panel may be drawn and prepared at any time upon the order of the presiding judge.
Added by Laws 1977, c. 256, § 28-118, eff. July 1, 1978.

§11-28-119. Special panel.

In the event of the exhaustion of the regular jury panel, a special panel may be prepared and summoned upon the order of the judge directed to the chief of police of the city or sheriff of the county in the same manner as is provided by law for summoning a special panel in the district court.
Laws 1977, c. 256, § 28-119, eff. July 1, 1978.

§11-28-120. Compliance with criminal code of procedure.

Except as otherwise specifically provided, the municipal court of record shall comply with the criminal code of procedure, as in the district court for misdemeanor cases.
Added by Laws 1977, c. 256, § 28-120, eff. July 1, 1978. Amended by Laws 1998, c. 172, § 2, eff. Nov. 1, 1998.

§11-28-121. Process - Searches, seizures and confiscation - Service of arrest warrant.

The municipal criminal court of record, by and through its clerk or judge, shall have power to issue subpoenas, writs of attachment, and summonses, to administer oaths, to verify complaints and other processes and writs issuable by the district judge in criminal proceedings, and to direct the same to the chief of police or other law enforcement officers. The municipal criminal court of record shall have power to compel obedience to its writs and orders in the same manner and to the same extent as the district court. The municipal criminal court of record shall also have power to issue arrest warrants and search and seizure warrants and to hear and determine proceedings for the confiscation of property used in violation of the ordinances of the municipality. A law enforcement officer of the municipality or a county sheriff may serve an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee of Twenty Dollars ($20.00).
Amended by Laws 1982, c. 133, § 3; Laws 1984, c. 126, § 60, eff. Nov. 1, 1984; Laws 1990, c. 259, § 2, eff. Sept. 1, 1990.

§11-28-122. Trial Docket - Criminal courts to observe certain holidays.

A. The trial docket of the municipal criminal court of record shall be prepared and set by order of the presiding judge at such times and in such manner as he may prescribe.

B. Municipal criminal courts of record shall remain closed on those holidays observed by the district courts of the state; however, the office of the court clerk may remain open for business.
Laws 1977, c. 256, § 28-122, eff. July 1, 1978; Laws 1980, c. 254, § 1, eff. Oct. 1, 1980.

§11-28-123. Execution of sentence - Modification, reduction or suspension - Probation - Deferred sentence.

A. All sentences of imprisonment shall be executed by the chief of police of the city, and any person convicted of a violation of any ordinance of the city and sentenced to imprisonment shall be confined in the jail, farm or workhouse, of the city, in the discretion of the court, for the time specified in the sentence. All persons who shall be convicted in the court of violation of any ordinance of the city

and sentenced to pay a fine and costs, who shall refuse to pay such fine or costs, shall be imprisoned in the jail of the city for one (1) day for each Two Dollars ($2.00) of the fine and costs assessed.

B. The judge of the municipal criminal court of record imposing a judgment and sentence, at his discretion, is empowered to modify, reduce, or suspend or defer the imposition of such sentence or any part thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Upon completion of the probation term following a deferred sentence, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty or plea of guilty shall be expunged from the record and said charge be dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

C. The judge of the municipal court of record may continue or delay imposing a judgment and sentence for a period of time not to exceed one (1) year from the date of sentence. At the expiration of such period of time the judge may allow the city attorney to amend the charge to a lesser offense.

D. If a deferred sentence is imposed, an administrative fee of One Hundred Dollars ($100.00) may be imposed as costs in the case. Added by Laws 1977, c. 256, § 28-123, eff. July 1, 1978. Amended by Laws 1983, c. 293, § 6, operative Oct. 1, 1983; Laws 1993, c. 265, § 2, eff. July 1, 1993; Laws 1999, c. 217, § 4, eff. Nov. 1, 1999.

§11-28-124. Imprisonment for nonpayment of fine and costs - Persons unable to pay.

Any person who shall be convicted in the municipal criminal court of record of a violation of any ordinance of the city and sentenced to pay a fine and costs, who is financially able but refuses or neglects to pay such fine and costs, shall be imprisoned in the jail, farm or workhouse of the city, in the discretion of the court, for one (1) day for each Twenty-five Dollars ($25.00) of the fine and cost assessed or one (1) day for each Fifty Dollars ($50.00) of the fine and cost assessed if the person performs useful labor. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in the county where the situs of the municipal government is located where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon, the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor. Further, if the defendant is without means to pay the fine or costs, and no undue hardship would result, the municipal judge may direct the defendant

to perform community service at a rate of not less than the current federal minimum wage.
Added by Laws 1977, c. 256, § 28-124, eff. July 1, 1978. Amended by Laws 2008, c. 413, § 2, eff. Nov. 1, 2008; Laws 2018, c. 305, § 1, eff. Nov. 1, 2018.

§11-28-125. Costs.

When a person is convicted of a violation of any ordinance of the city, the cost of prosecution shall be taxed against such person as a part of the penalty and said penalty shall be enforced as provided in this article. The governing body of the city shall have the power to specify a schedule of costs, including witness fees, to be taxed in cases wherein a violation of a city ordinance is charged.

Costs of the prosecution shall be taxed against a person when the penalty assessed said person is a deferred sentence in the same manner as costs are taxed against an individual for a violation of any other ordinance of the city.
Amended by Laws 1983, c. 293, § 7, operative Oct. 1, 1983.

§11-28-126. Fines and costs - Disposition.

Any and all fines and costs collected, and all bonds and recognizances forfeited shall be paid into the treasury of the city. The court shall cause any furniture or equipment or other personal property which the court finds to have been actually used or intended to be used in violation of ordinances of the city to be delivered to the chief of police; provided that any of the furniture or equipment susceptible of legitimate use may be sold and the proceeds thereof shall be paid into the treasury of the city.
Laws 1977, c. 256, § 28-126, eff. July 1, 1978.

§11-28-127. Bond forfeiture.

If a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or to surrender himself in execution of the judgment, or upon any other occasion when his presence in court or before the municipal judge may be lawfully required, bond forfeiture shall follow the procedures as set forth in Section 1332 of Title 59 of the Oklahoma Statutes.
Amended by Laws 1982, c. 88, § 1; Laws 1984, c. 225, § 26, emerg. eff. May 23, 1984. Amended by Laws 1990, c. 332, § 1, emerg. eff. May 30, 1990.

§11-28-128. Appeals.

Appeals may be taken from a judgment or order of a municipal criminal court of record to the Court of Criminal Appeals in the same manner and to the same extent that appeals are now taken from the

district courts to the Court of Criminal Appeals in criminal matters, and no appeals other than those herein provided shall be allowed.
Laws 1977, c. 256, § 28-128, eff. July 1, 1978.

§11-29-101. General powers.

The municipal governing body may procure all necessary equipment for protection and prevention against fire and provide for the organization of a municipal fire department. The governing body may enact such ordinances, resolutions and regulations as may be necessary to establish and operate a fire department, and to borrow money and issue bonds therefor subject to the provisions of the Constitution and laws of Oklahoma.
Laws 1977, c. 256, § 29-101, eff. July 1, 1978.

§11-29-102. Fire chief - Duties - Qualifications - Activity report forms.

All cities having a paid fire department shall have one full-time fire chief who shall supervise and administer the fire department in accordance with the policies and procedures prescribed by the governing body or by the city manager. The fire department shall be under the direction and control of the fire chief who shall not serve as fire chief and also as police chief, city manager, mayor or any other position that impairs the ability to perform the duties of a fire chief. The fire chief, whether permanent or interim, of any paid municipal fire department shall have had at least three (3) years' actual experience as a paid fire fighter before assuming the position of fire chief. It shall be the duty of the fire chief to file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of fire fighter deaths in the line of duty and of fire fighter injuries in the line of duty requiring the services of a hospital or physician or both.
Added by Laws 1977, c. 256, § 29-102, eff. July 1, 1978. Amended by Laws 1980, c. 250, § 1, eff. Oct. 1, 1980; Laws 1982, c. 83, § 1; Laws 1986, c. 190, § 4, operative July 1, 1986; Laws 1990, c. 16, § 1, emerg. eff. March 29, 1990; Laws 2009, c. 435, § 1, eff. July 1, 2009; Laws 2014, c. 281, § 1, emerg. eff. May 12, 2014.

§11-29-103. Firefighters - How appointed.

The members of all paid municipal fire departments shall, on approval of the chief of the fire department, be appointed in the manner provided by law applicable to the form of municipal government for the appointment of municipal employees.

Laws 1977, c. 256, § 29-103, eff. July 1, 1978.

§11-29-103.1. Firefighters – Criminal history records check - Fingerprints.

A. Prior to appointing a paid member of a municipal fire department, each department may conduct a national criminal history records check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

B. Each applicant, upon request, shall furnish the department with two completed fingerprint cards and a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation for the fee for a national fingerprint criminal history records check. The Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System (AFIS) and submit the other set to the Federal Bureau of Investigation (FBI) for a national criminal history records check.
Added by Laws 2009, c. 113, § 1, eff. Nov. 1, 2009.

§11-29-104. Tenure of office.

The chief and members of all paid municipal fire departments shall hold their respective positions unless removed for a good and sufficient cause as provided by applicable law or ordinance.
Laws 1977, c. 256, § 29-104, eff. July 1, 1978.

§11-29-104.1. Paid fire department - Definition.

The term "paid fire department" means one which has in its employ more than two full-time salaried firefighters and no enrolled volunteer firefighters.
Added by Laws 2003, c. 460, § 1, eff. July 1, 2003.

§11-29-105. Municipalities and fire protection districts - Contracts.

A municipality may:

1. Provide protection from fire for all persons and property within its boundaries;

2. Contract to give or receive such protection to or from one or more municipalities or private organizations;

3. Provide fire protection jointly with one or more municipalities or private organizations;

4. Contribute toward the support of any fire department in return for fire protection service;

5. Create fire protection districts within the limits of the municipality encompassing areas served by fire protection services; or

6. Provide fire protection for persons and property outside its corporate limits provided that said fire protection has been authorized by the governing body of the municipality.

Laws 1977, c. 256, § 29-105, eff. July 1, 1978; Laws 1993, c. 241, § 1, eff. Sept. 1, 1993.

§11-29-106. Contracts respecting fire protection.

Any contract for fire protection entered into by the governing bodies of municipalities shall expressly stipulate the terms and conditions upon and in compliance with which each party thereof is to cooperate in furnishing, maintaining, and operating fire equipment for outside aid or mutual aid or making payment for such service. Governing bodies may contract to supply fire protection to owners of any individual properties.
Laws 1977, c. 256, § 29-106, eff. July 1, 1978.

§11-29-107. Firefighters working outside limits - Compensation - Pension fund.

All municipal firefighters, full paid or volunteer, attending and serving at fires or doing fire prevention work or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of a municipality as provided in Sections 29-105 through 29-108 of this title shall be considered as serving in their regular line of duty as full as if they were serving within the corporate limits of their own municipality; but fuel paid firefighters shall receive no additional compensation, and volunteer firefighters shall receive only such compensation as may be provided for by ordinance or resolution for such cases. All such firefighters shall be entitled to all the benefits of any pension fund, firemen's relief and pension fund in the same manner as if the fire fighting or fire prevention work or rescue, resuscitation, first aid, inspection or any other official work has been within the corporate limits of the municipality.
Laws 1977, c. 256, § 29-107, eff. July 1, 1978.

§11-29-108. Fire department answering calls outside corporate limits considered agent of state - Liability for damages.

A municipal fire department answering any fire alarms or performing fire prevention services or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of its municipality shall be considered an agent of the State of Oklahoma, and acting solely and alone in a governmental capacity. Said municipality shall not be liable in damages for any act of commission, omission, or negligence while answering or returning from any fire or reported fire or doing or performing any fire prevention work or rescue, resuscitation, first aid, inspection or any other official work.
Laws 1977, c. 256, § 29-108, eff. July 1, 1978.

§11-29-109. Municipalities permitted to contract for fire protection.

A. Any city or town operating a paid fire department may contract with a private entity, organization, corporation or company for the performance of the essential functions of fire suppression, prevention, and life safety duties in a fire department and, if required, transfer capital assets used in fire protection services to a public trust for the use of the private entity, organization, corporation or company in providing such services. Pursuant to the provisions of this act, the mayor shall issue an order calling for an election on the question of whether or not the city or town shall change its method of providing fire protection if:

1. An initiative petition is filed with the governing body of the municipality; or

2. The governing body, by resolution, so directs.

B. The initiative petition or resolution of the governing body shall be filed with the clerk of the municipality at least one hundred twenty (120) days before the filing date for the next municipal general election. The order calling for the election regarding fire protection services shall be issued by the mayor of the municipality within ten (10) days after a decision has been made on the ballot title, or within ten (10) days after the effective date of the resolution of the governing body.

Added by Laws 1997, c. 142, § 1, eff. Nov. 1, 1997.

§11-29-110. Election on question of contracting for fire protection services.

The question of contracting for fire protection services with a private entity, organization, corporation or company and, if required, the transfer of capital assets used in fire protection services to a public trust, shall be submitted to the registered voters of the city or town at the next general election, or a special election to be held in the city or town not less than thirty (30) days nor more than sixty (60) days after the date of the order calling for the election. Notice of the election on the question shall be given by the governing body in a manner required for municipal elections.

Added by Laws 1997, c. 142, § 2, eff. Nov. 1, 1997.

§11-29-111. Ballot - Canvass of returns and resolution of governing body.

A. 1. The question submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the City of _____ contract for fire protection services with a private entity, organization, corporation or company?

( ) Yes

( ) No

2. If the question includes the transfer of capital assets used in fire protection services, a second question shall be submitted to the registered voters of the municipality and shall be substantially in the following form:

Shall the City of _____ transfer ownership of capital assets used in fire protection services to a public trust for use by the private entity, organization, corporation or company in providing such services?

( ) Yes
( ) No

B. 1. The secretary of the county election board shall, within five (5) days after the canvass of returns, certify the results of the election on the question to the governing body.

2. If a majority of the votes cast are in favor of contracting for fire protection services with a private entity, organization, corporation or company, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the city or town will contract for fire protection services with a private entity, organization, corporation or company pursuant to a solicitation of proposals on a competitive bid basis pursuant to the provisions of the Oklahoma Central Purchasing Act.

3. If a majority of the votes cast are in favor of transferring ownership of capital assets used in fire protection services to a public trust for use by the private entity, organization, corporation or company in providing such services, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the city or town will create a public trust for such purpose and transfer ownership of the assets to the public trust.

Added by Laws 1997, c. 142, § 3, eff. Nov. 1, 1997.

§11-29-112. Recording and filing of resolutions.

The resolutions required pursuant to Section 3 of this act shall be recorded in the office of the county clerk and filed in the office of the Secretary of State and in the archives of the city.

Added by Laws 1997, c. 142, § 4, eff. Nov. 1, 1997.

§11-29-113. Fire protection services to meet or exceed current level of service.

The delivery of fire protection services shall meet or exceed the current levels and standards of fire protection services being provided by the municipality, pursuant to the provisions of Section 324.8 of Title 74 of the Oklahoma Statutes, in order for a private entity, organization, corporation or company to provide fire protection services to a municipality.

Added by Laws 1997, c. 142, § 5, eff. Nov. 1, 1997.

§11-29-114. Certain firefighters governmental employees and members of the Oklahoma Firefighters Pension and Retirement System.

All firefighters in the state whose fire department provides fire protection services to a participating municipality, as defined in paragraph 9 of Section 49-100.1 of this title, on or after the effective date of this act shall be governmental employees, as described in Internal Revenue Service Revenue Ruling 1989-49, 1989-1 CB 117, and shall be members of the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement Board shall determine whether a firefighter is a governmental employee as defined in this section.

Added by Laws 1997, c. 142, § 6, eff. Nov. 1, 1997. Amended by Laws 2013, c. 388, § 1, emerg. eff. May 29, 2013.

§11-29-115. Publication of income or loss statement and balance sheet.

Every private entity, organization, corporation or company providing fire protection services to a municipality shall, within ninety (90) days after the end of its fiscal year, publish one insertion in a legal newspaper that services that municipality. Such insertion shall be a statement of income or loss and a balance sheet that relates only to the fire protection services being provided to the municipality. The statement shall be prepared in conformance with generally accepted accounting principles along with an opinion of fair presentation by a certified public accountant.

Added by Laws 1997, c. 142, § 7, eff. Nov. 1, 1997.

§11-29-201. Oklahoma Volunteer Firefighters Act - Purpose.

The purpose of the Oklahoma Volunteer Firefighters Act, Sections 29-201 through 29-205 of this title, is to provide for a uniform system of fire protection for the lives and property of the people of Oklahoma.

Laws 1977, c. 256, § 29-201, eff. July 1, 1978.

§11-29-202. Definitions.

As used in Sections 29-201 through 29-205 of this title:

1. "Volunteer firefighter" means a person who is enrolled as a member of a fire department and who serves in such capacity without receiving a regular salary. A person who is a salaried public safety employee of a municipality shall not serve as a volunteer firefighter of a volunteer fire department unless the person is off duty and such service is not a condition of employment. A public safety employee is a person employed to serve as a salaried firefighter, police or other law enforcement officer or emergency medical technician;

2. "Volunteer fire department" means a fire department which has in its employ not more than two full-time salaried firefighters; and

3. "Municipality" means a municipality which has qualified to participate in the Oklahoma Firefighters Pension and Retirement System.
Added by Laws 1977, c. 256, § 29-202, eff. July 1, 1978. Amended by Laws 2003, c. 460, § 2, eff. July 1, 2003; Laws 2007, c. 356, § 1, emerg. eff. June 4, 2007.

§11-29-203. Size of volunteer department.

Any municipality having a volunteer fire department shall limit by ordinance the size of the volunteer fire department to not less than twelve nor more than twenty-five members for municipalities with a population of more than one thousand five hundred (1,500); or not less than eight or more than twenty-five members for municipalities with a population of eight hundred (800) to one thousand five hundred (1,500); or not less than six or more than twenty-five members for municipalities with a population of less than eight hundred (800). Any municipality having a volunteer fire department that serves a nine-one-one (911) emergency telephone area of fifty (50) square miles or more may increase the size of the volunteer fire department up to an additional five members, with the total number of members of the volunteer fire department not to exceed thirty.
Added by Laws 1977, c. 256, § 29-203, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 51, eff. Jan. 1, 1981; Laws 1981, c. 3, § 1, emerg. eff. Feb. 19, 1981; Laws 1983, c. 230, § 1, emerg. eff. June 17, 1983; Laws 2002, c. 115, § 1, eff. Nov. 1, 2002; Laws 2013, c. 147, § 1, eff. Nov. 1, 2013.

§11-29-204. Minimum rules and regulations of volunteer fire department.

Any municipality which has volunteers enrolled as members of the fire department shall adopt by ordinance a code of minimum rules and regulations in substantial compliance with the following:

Article 1. The Fire Chief.

(a) The chief shall be the head of the department, subject to the laws of the State of Oklahoma, ordinances of this municipality, and the rules and regulations adopted pursuant to this section. The chief shall be appointed in the manner provided by law applicable to this municipality for the appointment of municipal officers.

(b) The chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him by law or the municipality.

(c) The chief may inspect or cause to be inspected by members of the department, the municipal fire hydrants, cisterns, and other sources of water supply of the municipality at least twice a year.

(d) The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members.

(e) The chief shall make every effort to attend all fires and shall direct the officers and members in the performance of their duties.

(f) The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department.

(g) The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities. The chief shall secure and preserve all possible evidence for future use in the case of suspicious incendiarism.

(h) The chief shall file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of fire fighter deaths in the line of duty and of fire fighter injuries in the line of duty requiring the services of a hospital or physician or both.

Article 2. The Assistant Chief.

In the absence of the chief, the assistant chief on duty shall command the department and shall have the full powers and responsibilities of the chief.

Article 3. Company Officers.

The company officers shall be selected upon their: 1. knowledge of fire fighting, 2. leadership ability, and 3. knowledge of fire fighting equipment.

Article 4. The Secretary-Treasurer.

One member elected by the fire department shall be secretary-treasurer. His duties shall consist of the following: 1. Calling the roll at the opening of each meeting, 2. Keeping the minutes of each meeting, and 3. Collecting any money due the department by the members.

Article 5. New Members.

(a) All new members shall be on probation for one (1) year after their appointment.

(b) New volunteer members upon completion of their probation period must be approved by the majority of the fire department.

Article 6. Bylaws.

The bylaws of the department shall include but shall not be limited to the following:

(a) All volunteer fire fighters are required to respond to alarms of fire and other emergencies when notified.

(b) A volunteer fire fighter is required to be present at all regular meetings, call meetings, and schools presented for the benefit of the fire fighters.

(c) There shall be at least one regular business meeting each month.

(d) Any volunteer fire fighter having two unexcused absences in succession or three unexcused absences in a period of three (3) months will be expelled from the fire department rolls.

(e) Volunteer fire fighters leaving the municipality for an extended period of time will be required to notify the chief.

(f) Any volunteer fire fighter refusing to attend training classes provided for him will be expelled from the rolls.

(g) Any volunteer member of the fire department shall be expelled from the rolls for the following offenses: 1. Conduct unbecoming a fire fighter, 2. Any act of insubordination, 3. Neglect of duty, 4. Any violation of rules and regulations governing the fire department, or 5. Conviction of a felony.

Amended by Laws 1982, c. 83, § 2; Laws 1983, c. 202, § 3, operative July 1, 1983; Laws 1986, c. 190, § 5, operative July 1, 1986; Laws 1990, c. 16, § 2, emerg. eff. March 29, 1990.

§11-29-205. Repealed by Laws 2010, c. 222, § 63, eff. Nov. 1, 2010.

§11-29-206. Used fire equipment

A municipality may enter into agreements for used equipment that has been tested and certified as safe with a volunteer fire department and shall not be liable for any damage caused by the use of such equipment by the volunteer fire department.

Added by Laws 2016, c. 150, § 1, eff. Nov 1, 2016.

§11-29-301. Definitions.

A. As used in this section and Section 4 of this act:

1. “Combination fire department” means a fire department which has in its employ more than two full-time salaried firefighters and at least one but not more than twenty-five volunteer firefighters. However, a fire department that would otherwise be considered a “combination fire department” under this definition but for the fact that it had more than twenty-five (25) volunteer firefighters on June 1, 2003, shall be considered a “combination fire department” as long as it does not exceed the number of volunteer firefighters that it had on June 1, 2003; and

2. “Volunteer firefighter of a combination fire department” means a person who is enrolled as a volunteer member of a combination fire department and who serves in such capacity without receiving a regular salary. The person, who is a salaried employee of a

municipality, shall not serve as a volunteer firefighter of a combination fire department if such service as a volunteer firefighter is a condition of employment with the municipality. A person, who is a salaried public safety employee of a municipality, shall not serve as a volunteer firefighter of a combination fire department unless the person is off duty and such service is not a condition of employment.

B. For the purposes of this subsection, a public safety employee is a person employed to serve as a salaried firefighter, police or other law enforcement officer or emergency medical technician.
Added by Laws 2003, c. 460, § 3, eff. July 1, 2003.

§11-29-302. Application of other provisions of law.

The provisions of Sections 29-101 through 29-115 of Title 11 of the Oklahoma Statutes relating to paid fire departments, paid fire chiefs, paid firefighters or fire department equipment or other property shall also apply to combination fire departments unless otherwise noted.
Added by Laws 2003, c. 460, § 4, eff. July 1, 2003.

§11-29-303. Duties of volunteer firefighters of combination fire department.

Volunteer firefighters of a combination fire department shall:

1. Be required, when notified, to respond to alarms of fire and other emergencies;

2. Be required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters;

3. Be dropped from a fire department's rolls if such volunteer firefighter has two unexcused absences in succession or three unexcused absences in a period of three (3) months;

4. Notify the chief if such volunteer firefighter is leaving the municipality for an extended period of time;

5. Be expelled from the rolls if such volunteer firefighter refuses to attend training classes provided for him or her;

6. Be expelled from the rolls for the following offenses:

   a. conduct unbecoming of a firefighter,
   b. any act of insubordination,
   c. neglect of duty,
   d. any violation of rules and regulations governing the fire department, or
   e. conviction of a felony; and

7. Reside in the same county as the combination fire department he or she is enrolled in or in a county that immediately borders the county in which the combination fire department is located.
Added by Laws 2003, c. 460, § 5, eff. July 1, 2003.

§11-29-304. Volunteer Firefighter Recognition Program.

There is hereby created a "Volunteer Firefighter Recognition Program". This program shall recognize the following persons with a certification of recognition from the Governor:

1. Employers of volunteer firefighters who allow the firefighter time off for training and emergency responses; and

2. Volunteer firefighters for their service to the citizens of their community and to this state.

Added by Laws 2003, c. 460, § 6, eff. July 1, 2003.

§11-30-101. Establishment of municipal hospitals - Financial statement and estimate

A municipal governing body may establish and maintain a municipal hospital and do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to further the ability of the municipality to provide hospital service. After the establishment of a municipal hospital, the governing body shall include an item in its municipal financial statement and estimate of needs for the following fiscal year to maintain the hospital. The municipal governing body may engage in transactions to manage, lease or operate a medical facility outside the municipal limits to provide a benefit to the community or lessen the burden of government which does not solely provide a benefit by generating administrative fees.

Added by Laws 1977, c. 256, § 30-101, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 61, eff. Nov. 1, 1984; Laws 2016, c. 233, § 1.

§11-30-102. Hospital board of control.

The municipal governing body may, in its discretion and by ordinance, place the exclusive management and control of the municipal hospital under a board of control of five (5) members, chosen by the governing body from the citizens of any school district which is part of the municipality with reference to their fitness for such office. The members of the board of control shall hold office for a term of five (5) years from the first day of May following their appointment, and their terms shall be staggered. At the first regular meeting of the board, the members shall cast lots for respective terms of one year, two years, three years, four years, and five years; thereafter the terms of all members shall be five (5) years. Vacancies in the board of control shall be filled in the same manner as original appointments.

Laws 1977, c. 256, § 30-102, eff. July 1, 1978; Laws 1995, c. 34, § 1, emerg. eff. Mar. 31, 1995.

§11-30-103. Organization of board.

The board of control shall, immediately after the appointment and qualification of its members, meet and organize by electing one

member as president and one member as secretary. The municipal treasurer shall act as treasurer of the board.
Laws 1977, c. 256, § 30-103, eff. July 1, 1978.

§11-30-104. Rules and regulations - Expenditures and receipts - Hospital fund - Personnel.

The board of control shall adopt rules and regulations for its own guidance and for the governance and operation of the municipal hospital, not inconsistent with this article, which shall be subject to the approval of the municipal governing body. It shall have exclusive control of expenditures of all moneys collected and deposited to the credit of the municipal hospital fund, of the hospital building or buildings, and of the care and custody of the grounds, rooms, or buildings purchased, leased or set apart for the hospital. All money received by the board on account of the operation of the hospital, or otherwise, shall be paid by the board to the municipal treasurer, who shall deposit the same in a special account in the municipal treasury to be designated the "hospital fund." Such moneys shall be paid out only upon warrants authorized by the board, drawn and signed by its secretary, and countersigned by its president. The board shall have authority to establish a petty cash fund, not to exceed the sum of Five Hundred Dollars ($500.00) at any one time, for use in maintaining the hospital, which money shall be expended by the superintendent of the hosptial on forms prescribed and authorized by the board of control. The board of control shall have authority to appoint, and remove, a suitable superintendent, or matron, or both, and necessary assistants and nurses, and to fix their compensation, all of which shall be subject to the approval of the municipal governing body.
Laws 1977, c. 256, § 30-104, eff. July 1, 1978.

§11-30-105. Meetings - Examinations - Pecuniary interest.

The board of control shall hold meetings at least once each month and keep a complete record of all its proceedings. Three members of the board shall constitute a quorum thereof. One of its members shall visit and examine the hospital at least twice each month. No member of the board shall have a pecuniary interest, either directly or indirectly, in any purchase for the hospital, except when such a purchase is made upon a competitive bid basis.
Laws 1977, c. 256, § 30-105, eff. July 1, 1978.

§11-30-106. Qualifications of nurses and attendants - Physicians and surgeons.

The board of control shall appoint none other than competent and experienced nurses and attendants for the municipal hospital, and employ competent and experienced physicians and surgeons to care for,

and render medical and surgical treatment to, the patients of the hospital.
Laws 1977, c. 256, § 30-106, eff. July 1, 1978.

§11-30-107. Donations.

Any person desiring to make donations of money, personal or real property for the benefit of the municipal hospital, or for the establishment, maintenance or endowment of the hospital, shall have the right to vest the title to such money or property in the municipality, to be held and controlled by the municipality, when accepted, according to the terms of the donation. The municipality shall be held and considered to be a special trustee as to such money or property donated.
Laws 1977, c. 256, § 30-107, eff. July 1, 1978.

§11-30-108. Grounds and building.

The board of control shall have the power, with the approval of the municipal governing body, to purchase grounds and erect thereon a suitable building for the hospital and to suitably equip the same. The title to the grounds so purchased, as well as any building thereon, shall be taken in the name of the municipality as grantee.
Laws 1977, c. 256, § 30-108, eff. July 1, 1978.

§11-30-109. Annual report of board of control.

The board of control shall make, on or before the thirty-first day of July in each year, an annual report to the municipal governing body stating:

1. The condition of its trust on the thirtieth day of June of that year;
2. The various sums of money and property received, and how such moneys have been expended and for what purposes;
3. The financial condition of the hospital;
4. The budget for the hospital for the next fiscal year;
5. The number of its physicians, attendants, nurses and employees; and
6. Such other information and suggestions as it may deem of general interest.

Laws 1977, c. 256, § 30-109, eff. July 1, 1978.

§11-31-101. Establishment of municipal libraries - Financial statement and estimate.

A municipal governing body may establish and maintain a public library for the use and benefit of the citizens of the municipality. The governing body may establish branch libraries in different parts of the municipality to accommodate the citizens of the municipality. After the establishment of a municipal public library, the municipal governing body shall include an item in its municipal financial

statement and estimate of needs for the following fiscal year to maintain the public library.
Laws 1977, c. 256, § 31-101, eff. July 1, 1978.

§11-31-102. Library board of directors.

The municipal governing body may, in its discretion and by ordinance, place the management and control of the public library under a library board of directors. The library board shall consist of at least five but not more than nine directors, chosen by the municipal governing body with reference to their fitness for such office. No director shall receive compensation as such. Directors appointed to the library board shall hold office for a term of three (3) years from the first day of May following their appointment, and their terms shall be staggered. The municipal governing body may remove any director for misconduct or neglect of duty. Vacancies in the library board of directors shall be filled in the same manner as original appointments.
Added by Laws 1977, c. 256, § 31-102, eff. July 1, 1978. Amended by Laws 1992, c. 381, § 1, eff. July 1, 1992; Laws 2012, c. 25, § 1.

§11-31-103. Organization of library board.

The library board, immediately after the appointment and qualification of its directors, shall meet and organize by electing one director as president, one director as secretary, and by electing such other officers as the board may deem necessary.
Laws 1977, c. 256, § 31-103, eff. July 1, 1978.

§11-31-104. Powers and duties of library board - Fixing of fees.

The library board shall have control and supervision of the public library of the municipality. The library board may appoint a suitable librarian and remove the librarian, subject to approval of the municipal governing body. The board shall fix any fees to be charged by the library and shall have such other powers and authority as may be provided by ordinances of the municipality.
Laws 1977, c. 256, § 31-104, eff. July 1, 1978; Laws 1991, c. 124, § 16, eff. July 1, 1991; Laws 1992, c. 381, § 2, eff. July 1, 1992.

§11-31-105. Grounds and building.

The library board shall have the power, with the approval of the municipal governing body, to purchase grounds and erect thereon a suitable building for the use of the municipal library and to suitably equip the same, and to lease rooms or buildings for the use of the library. The title to any grounds so purchased or leased, as well as any building thereon, shall be taken in the name of the municipality as grantee.
Laws 1977, c. 256, § 31-105, eff. July 1, 1978.

§11-31-106. Library board may impose fines or penalties.

The library board may impose fines or suitable penalties for loss of, failure to return, or damage to library materials, subject to ordinances which the municipal governing body may enact.

Laws 1977, c. 256, § 31-106, eff. July 1, 1978; Laws 1992, c. 381, § 3, eff. July 1, 1992.

§11-31-107. Donations.

Any person desiring to make donations of money, personal or real property for the benefit of the municipal library shall have the right to vest the title to such money or property in the municipality, to be held and controlled by the municipality, when accepted, according to the terms of the donation. The municipality shall be held and considered to be a special trustee as to such property or money donated.

Laws 1977, c. 256, § 31-107, eff. July 1, 1978; Laws 1992, c. 381, § 4, eff. July 1, 1992.

§11-31-108. Annual report of board.

The library board shall make, on or before the thirty-first day of July in each year, an annual report to the municipal governing body stating:

1. The condition of its trust on the thirtieth day of June of that year;

2. The various sums of money and property received from the library fund and other sources, and how such moneys have been expended and for what purposes;

3. The budget for the library for the next fiscal year;

4. Statistics on the general character and number of books and periodicals which:

a. are on hand;

b. are lost or missing;

c. have been added by purchase, gift or otherwise during the year; and

d. have been loaned out during the year;

5. The number of persons making use of the library during the year; and

6. Such other information, statistics and suggestions as it may deem of general interest.

Laws 1977, c. 256, § 31-108, eff. July 1, 1978.

§11-32-101. Definitions.

As used in Sections 32-101 through 32-117 of this title, the terms "public parking stations" and "parking stations" include parking lots, parking areas, passageways, arcades, buildings or other structures for parking or storage of automotive vehicles, and facilities for ingress and egress to automobile parking facilities.

Laws 1977, c. 256, § 32-101, eff. July 1, 1978.

§11-32-102. General powers of municipality.

A municipal governing body may:

1. acquire or construct parking stations within the limits of the municipality;

2. own, maintain, and operate parking stations;

3. own and lease parking stations to or cause parking stations to be maintained and operated by a financially responsible person, firm, or corporation; or

4. own and lease to a responsible person, firm, or corporation who shall construct, finance, and operate one or more parking stations.

The right of the municipality to own, lease, maintain, operate, and cause to be operated parking facilities and to fix and collect fees and tolls for the use of said facilities is hereby declared to be a public right and use. Said right and facilities shall constitute a public benefit. The municipal governing body may do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to further the ability of the municipality to provide parking facilities and services.

Amended by Laws 1984, c. 126, § 62, eff. Nov. 1, 1984.

§11-32-103. Acquiring land for parking stations - Title.

A municipal governing body, in its discretion, may acquire, by purchase, gift or condemnation, lands for public parking stations for the control of traffic within the corporate limits of the municipality. In acquiring lands for public parking stations by condemnation, the provisions of state law relating to the exercise of eminent domain by railroads shall be followed. The title to land condemned or otherwise acquired for parking stations shall be vested in the municipality; and the costs thereof may be paid as provided in Section 32-105 of this title for parking station improvements.

Laws 1977, c. 256, § 32-103, eff. July 1, 1978.

§11-32-104. Rights of common carriers and utilities.

If the exercise of powers granted by Sections 32-103, and 32-105 through 32-117 of this title by the municipality makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any railroad, common carrier, or public utility property or facility, then all such relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the parking station improvement district. The municipality shall not disturb the possession or operation of any railroad, common carrier, or public utility in or to the appropriated property or facility until the relocated property or facilities are

available for use and until marketable title thereto has been transferred to the railroad, common carrier or public utility.
Laws 1977, c. 256, § 32-104, eff. July 1, 1978.

§11-32-105. Establishing parking station improvement district - Restrictions on cost.

A municipal governing body may make or cause to be made municipal parking facilities or improvements thereon which confer a special benefit upon property within a definable area of the municipality and may levy and collect special assessments upon property in the area deemed by the governing body to be benefited by the improvement. The improvement district shall be established by the adoption of a resolution of the governing body. In the resolution, the governing body shall:

1. Fix the percentage of cost of acquiring and improving lands for parking stations which is to be assessed against the improvement district; and

2. Direct and order a public hearing on the advisability of the improvement, as provided in Section 32-107 of this title.

The municipality may pay such portion of the cost of the improvement as the governing body may determine, but not more than fifty percent (50%) of the total cost thereof.
Laws 1977, c. 256, § 32-105, eff. July 1, 1978.

§11-32-106. Surveys and plans of proposed parking stations.

Before establishing an improvement district for parking stations, the governing body may conduct a survey and investigation for the purpose of determining:

1. Suitable locations for parking stations;

2. The approximate cost of acquiring and improving the land therefor;

3. The area to be included in the improvement district or districts; or

4. The percentage of the costs of acquiring and improving such parking stations which shall be paid by the municipality and the property owners within the district.

A written report on such survey and investigation shall be filed in the office of the municipal clerk. For the purpose of the survey and investigation, the governing body may employ appraisers, engineers, and other persons as it may deem necessary. The cost of the survey and investigation shall be included as a part of the cost of acquiring and improving the land for parking stations; except that if no land be acquired, the costs may be paid from the general fund of the municipality.
Laws 1977, c. 256, § 32-106, eff. July 1, 1978.

§11-32-107. Public hearing on improvement - Notice.

Before any contract is let or work is ordered or authorized for parking station improvements, except the survey and investigation authorized in Section 32-106 of this title, the governing body shall conduct a public hearing on the advisability of the improvement, as set forth in the resolution establishing the improvement district. Notice of the hearing shall be given by:

1. Publishing a notice in not less than two (2) issues of a newspaper of general circulation in the municipality. The two (2) publications shall be seven (7) days apart, and the last publication shall be at least three (3) days before the hearing; and

2. Mailing a postal card, or a copy of the newspaper publication, to each listed owner of property within the district, as shown by the current year's tax rolls in the county treasurer's office, which mailing shall be not less than ten (10) days before the hearing on the improvement.

The notice by mail and by publication shall contain:

1. The time and place of the hearing;

2. The general nature of the proposed improvements;

3. The estimated or probable cost of the proposed improvements;

4. The extent of the proposed improvement district to be assessed;

5. The proposed method of assessment; and

6. The proposed apportionment of cost between the improvement district and the muncipality.

Laws 1977, c. 256, § 32-107, eff. July 1, 1978.

§11-32-108. Resolution authorizing improvement - Notice.

The governing body may, by a majority vote of its entire membership, adopt a resolution authorizing the parking station improvement at any time within six (6) months after the final adjournment of the hearing on the advisability of making the improvement. Notice of the resolution shall be published in at least two (2) issues of a newspaper of general circulation in the municipality. The notice shall state that any record owner of property liable to assessment may protest the improvement, as provided in Section 32-109 of this title.

Laws 1977, c. 256, § 32-108, eff. July 1, 1978.

§11-32-109. Protest.

The parking station improvement shall not be commenced if, within thirty (30) days after the last publication of the resolution ordering the improvement, written protests have been filed by both:

1. A majority of the record owners of property liable for assessment within the improvement district; and

2. The record owners of more than one-half the area liable for assessment in the district.

The governing body shall be judge of the sufficiency of any protest and its decision shall be final and conclusive. Names may be withdrawn from any protests by the signers thereof at any time before the governing body convenes to determine the sufficiency thereof. Laws 1977, c. 256, § 32-109, eff. July 1, 1978.

§11-32-110. Petition for improvement - Contents.

A petition for any parking station improvement may be filed with the municipal clerk. The petition shall be signed by either:

1. A majority of the record owners of property liable for assessment under the proposal; or

2. The record owners of more than one-half the area liable for assessment under the proposal.

The petition shall set forth:

1. The general nature of the proposed improvement;

2. The estimated or probable cost;

3. The extent of the proposed improvement district to be assessed;

4. The proposed methods of assessment; and

5. The proposed apportionment of cost between the improvement district and the municipality.

Upon the filing of the petition, the governing body may make findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost between the improvement district and the municipality, all as determined by the governing body. Thereupon the governing body may proceed without notice and hearing to order the improvement as provided in Section 32-108 of this title, except that no protests shall be received as provided therein. The area of the improvement district finally determined by the governing body to be assessed may not exceed the district proposed in the petition unless notice is given and a hearing held as provided in Section 32-107 of this title, and the proceedings shall be subject to protest as in other cases. Laws 1977, c. 256, § 32-110, eff. July 1, 1978.

§11-32-111. Rules applicable to a petition for improvement.

For the purposes of a petition for parking station improvement, the following shall apply:

1. After any petition has been signed by an owner of land in the improvement district, any change in ownership of the land shall not affect the petition;

2. If any of the owners of lands within the improvement district are tenants in common or joint tenants, each cotenant or joint tenant shall be considered a landowner to the extent of his undivided interest in said land;

3. The owner of a life estate shall be deemed the sole landowner;

4. Guardians of minors or insane persons may petition for their wards when authorized by the probate court to do so; and

5. An Oklahoma corporation having its registered office in the municipality and owning land in the improvement district shall be deemed a record landowner.

Laws 1977, c. 256, § 32-111, eff. July 1, 1978.

§11-32-112. Limitation on suits contesting establishment of the district.

No suit shall be maintained in any court to enjoin or in any way contest the establishment of parking stations or the establishment of an improvement district unless the suit be instituted and summons served within thirty (30) days after the date of the filing of a petition for the improvement with the municipal clerk, or within thirty (30) days after the date of the public hearing on the advisability of the improvement.

Laws 1977, c. 256, § 32-112, eff. July 1, 1978.

§11-32-113. Apportionment of costs - Assessing ordinance - Limitation on suits.

The portion of the cost of any improvement to be assessed against the property in the improvement district shall be apportioned against the property in accordance with the special benefits accruing thereto by reason of the improvement. The cost may be assessed equally per front foot or per square foot against all lots and pieces of land within the improvement district or the cost may be determined and fixed on the basis of any other reasonable assessment plan which will result in imposing substantially equal burdens or shares of the cost upon property similary benefited. The governing body shall determine the final apportionment of costs of the improvement and shall levy, by ordinance, assessments in accordance with the apportionment against the property liable therefor. No suit shall be maintained in any court to enjoin or in any way contest the validity of any special assessment for the cost of acquiring or improving parking stations unless the same be instituted and summons served within thirty (30) days after the date of the publication of the ordinance levying the assessment.

Laws 1977, c. 256, § 32-113, eff. July 1, 1978.

§11-32-114. Levy and collection of costs - Installments - Issuance of bonds.

The levy and assessment shall be payable in not more than ten equal annual installments. Interest on the whole amount remaining due and unpaid each year shall be at a rate not exceeding eight percent (8%) per annum. Delinquent installments, and the unpaid

interest thereon, shall draw interest at the rate of twelve percent (12%) per annum from maturity until paid. Any owner of land within the improvement district may, within thirty (30) days after the assessing ordinance is passed, pay the entire amount assessed against such land. The assessing ordinance may provide that if the entire amount of all assessments shall not have been paid within thirty (30) days after passage of the assessing ordinance, special assessment bonds may be issued, sold, collected and enforced as to unpaid installments of assessments in the same manner as bonds for municipal street improvements are issued, sold, collected and enforced.
Laws 1977, c. 256, § 32-114, eff. July 1, 1978.

§11-32-115. Cost of maintaining or operating parking stations - Charges.

After any parking stations are acquired and improved by the municipality, the cost of maintaining, operating and policing the same shall be borne by the municipality. The use of the parking stations may be free or for such charge or charges as shall be determined by the governing body, to be collected either by parking meters, by attendants, or otherwise. The governing body may also prescribe and enforce any fees or charges which are to be made for the use of such facilities by any lessee or operator of the parking stations.
Laws 1977, c. 256, § 32-115, eff. July 1, 1978.

§11-32-116. Easements on streets and alleys for parking stations - Lease of parking stations by municipality.

A. For the purposes of this article, the right of public use and of the enjoyment of the streets and alleys within any municipality, heretofore or hereafter dedicated or otherwise established, is hereby declared to constitute an easement on the land upon which the streets and alleys are located. Such easement is hereby vested in the State of Oklahoma with all incidents of ownership thereof, except as provided in subsection B of this section; provided, that the management of such easements located within any municipality is hereby delegated to the municipality except insofar as the management of the easements has been, or hereafter shall be expressly restricted by law. The proprietary right in the easements and the management thereof shall not operate to alter, impair or divest in any manner whatsoever the state or any of its political subdivisions to the extent of any delegation by the state of the governmental control and regulation of the use and enjoyment of streets and alleys as thoroughfares.

B. All improvements made to any street or alley and all maintenance and repair thereof shall be effected solely pursuant to the governmental control and regulation of the streets and alleys as thoroughfares; and the ownership and management of the easements

described herein as such shall not include the right of improvement or maintenance of the easements.

C. For the purpose of expediting traffic and the use and enjoyment by the public of the easements described herein for throughfares, each municipality to which management thereof is delegated may prohibit parking or may designate specific portions of the easements for limited use for vehicle parking; may prescribe the limitations of such use for specified periods of time; may fix and collect a fee or charge for such limited and special use by vehicle operators, which fee or charge may be required to be paid in advance for each specified period of time; may lease designated portions of the easements for the operation of limited vehicle parking thereon upon the condition that the lessee under any such lease shall make no greater charges for vehicle parking on the leased portion or different periods of parking use than shall be specified in the lease. Each municipality, by ordinance, may protect any self-operated or leased parking stations or any portions of the easements designated for prohibited or limited vehicular parking from unauthorized trespass, may penalize violations, and authorize the removal and impoundment and sale for costs of removal and penalties of any trespassing vehicle. All revenues derived from fees and charges by any municipality and all lease rentals from the leasing of the easements shall be received by the municipality as compensation for its management of the easements.

D. Any lease made pursuant to this article shall constitute an enforceable contract between the respective municipality and its lessee, and shall not be impaired by any action of the municipality during its effective term. Nothing herein appearing to the contrary shall imply any surrender, divestiture, limitation or impairment of any lawful governmental power of the state or any of its political subdivisions in relation to any subject whatsoever.
Laws 1977, c. 256, § 32-116, eff. July 1, 1978.

§11-32-117. Disposal of parking station property.

If any parking station so acquired and improved shall become unsuitable or unusable as a parking station, the governing body, by ordinance, may discontinue the use of the land as a parking station and use the same for other municipal purposes or sell the same as provided by law.
Laws 1977, c. 256, § 32-117, eff. July 1, 1978.

§11-33-101. Purpose of Oklahoma public parks and recreation law.

The purpose of Sections 33-101 through 33-115 of this title is to promote the establishment, operation and support of public recreational facilities for the welfare of the people by local governmental units of Oklahoma either singly or jointly.
Laws 1977, c. 256, § 33-101, eff. July 1, 1978.

§11-33-102. Definitions.

For the purposes of Sections 33-101 through 33-115 of this title, the term "governing body" means any city council, city commission, town board of trustees, board of county commissioners, school board, or other body acting in lieu thereof, in the State of Oklahoma. The term "governmental unit" means any city, town, school district, or county in the State of Oklahoma.

Laws 1977, c. 256, § 33-102, eff. July 1, 1978.

§11-33-103. Powers of cities, towns, counties and school districts.

Any city, town, school district or county may establish, provide, maintain, construct, set apart and conduct, either singly or jointly in cooperation with one or more of the other governmental units specified herein, parks, playgrounds, recreation centers, athletic fields or grounds, swimming pools, social and community centers, and other facilities and activities in public schools, parks, buildings and facilities now owned or acquired. For such purposes the governing body of the governmental unit may dedicate and set apart for use as playgrounds, recreation centers and other recreational purposes any lands or buildings, or both, owned or leased by the governmental unit and not dedicated or devoted to another public use. The governmental unit may, in such manner as may now or hereafter be authorized or provided by law for the acquisition of lands or buildings for public purposes by the governmental unit, acquire or lease lands or buildings, or both, within or beyond the corporate limits of the governmental unit for playgrounds, recreation centers and other recreational purposes. When the governing body of the governmental unit shall dedicate, set apart, acquire or lease buildings for such purposes, it may on its own initiative provide for their conduct, equipment and maintenance according to the provisions of this subarticle by making an appropriation from the general revenues of the governmental unit as for other current expenses of the governmental unit. Any governing body is hereby authorized and empowered to establish, provide, maintain, construct and conduct recreational activities on local nongovernmental properties as well as on publicly-owned facilities.

Laws 1977, c. 256, § 33-103, eff. July 1, 1978.

§11-33-104. Joint establishment and conduct of system of recreation.

Any two or more governmental units may jointly establish and conduct such a system of recreation, including recreation centers, parks, swimming pools, playgrounds and any and all other recreational facilities and activities, and may exercise all the powers given by Sections 33-101 through 33-115 of this title. The respective governing bodies operating such a joint program or programs may provide by agreement among themselves for all matters connected with

the program and determine what items of cost and expense shall be paid by each. All such facilities and activities shall be governmental in nature, and no liability for negligence shall accrue against any participating governmental unit.
Laws 1977, c. 256, § 33-104, eff. July 1, 1978.

§11-33-105. Powers of governing body - Creation and powers of recreation board or commission.

The governing body of any governmental unit may establish a system of supervised recreation and it may, by resolution or ordinance, vest the power to provide, maintain and conduct playgrounds, recreation centers and other recreational facilities and activities in a board, department or commission as it may determine. Any agency so designated shall have the power to maintain and equip playgrounds, recreation centers and the buildings thereon, and it may, for the purpose of carrying out the provisions of this subarticle employ play leaders, playground directors, supervisors, recreational superintendents, and such other officers and employees as may be deemed proper. However, all appropriations for such purposes shall remain and be vested in the governing body of the governmental unit.
Laws 1977, c. 256, § 33-105, eff. July 1, 1978.

§11-33-106. Public recreation board or commission - Membership - Appointment.

A. If the governing body or bodies of any governmental unit or units shall determine that the power to provide, establish, conduct and maintain such recreation centers, facilities and playgrounds shall be exercised by a board or commission acting through a public recreation department, the governing body or bodies shall, by resolution or ordinance, singly or jointly, establish in the governmental unit or units a public recreation board which shall possess all the powers necessary to the carrying out of the provisions of this subarticle, and the planning and providing of a comprehensive program of public recreation. However, the financial and fiscal affairs of the board or commission and the public recreation program shall be under the supervision and control of the governing body or bodies of the governmental unit or units.

B. If a public recreation board or commission is established, it shall consist of not less than five (5) persons serving without pay, to be appointed jointly by a majority of the members of the governing body or bodies of the governmental unit or units. The term of office of each of the members of the board or commission shall be fixed by the governing body or bodies or the governmental unit or units; however all terms shall not expire at the same time. Immediately after their appointment, the members of the board or commission shall meet and organize by electing one of their members chairman, and such

other offices as the board may deem necessary. The board or commission shall elect officers annually and may appoint permanent or temporary committees, who may or may not be members of the board or governing body, to advise and assist it in the conduct of its affairs. Vacancies on the board or commission occurring otherwise than by expiration of their term of office shall be filled by the presiding officer of the governing body or bodies only for the unexpired term of the member whose vacancy is being filled.
Laws 1977, c. 256, § 33-106, eff. July 1, 1978.

§11-33-107. Public recreation board or commission - Functions - Superintendent.

If a public recreation board or commission shall be established, it shall discharge its functions through a public recreation department, as provided in Section 33-106 of this title, shall make annual reports, shall adopt rules and regulations and establish general policies for the conduct of its business and for the operation of public recreational activities and services. It shall make an annual report to the governing body or bodies and such special reports as may be requested in writing by the governing body or any of the governing bodies; provided that a copy of all reports shall be furnished to each governing body if there be more than one. The public recreation board or commission, in order to carry out the provisions of this subarticle, shall recommend a superintendent of recreation, not of its own membership or of the membership of the governing body or bodies, who is trained in public recreation and who shall be responsible for formulating the recreational program and community organization for recreation and who shall be the administrative head of the public recreation department. The superintendent shall be secretary of the public recreation board or commission, but shall have no vote. The superintendent shall:

1. Suggest and participate in planning public recreation and deciding upon matters of policy adopted by the board or commission;

2. Recommend appointment of trained personnel within the budgetary limits of the department;

3. Be in charge of all employees, and make all contracts and expenditures subject to the policies, rules and regulations of the board or commission;

4. Direct and be responsible for the work performed;

5. Make an annual report to the board or commission and such special reports as may be requested in writing by the board or commission; and

6. Prepare annually a budget for the operation of the recreation program for the succeeding fiscal year.

Salaries of all employees, including that of the superintendent, shall be determined by the board or commission. When the recreation program budget has been approved by the board or commission, it shall

be presented to the governing body or bodies for approval. All funds credited to the public recreational board or commission shall be paid out as are other public funds.
Laws 1977, c. 256, § 33-107, eff. July 1, 1978.

§11-33-108. Parallel systems within same area not authorized.

The provisions of Sections 33-101 through 33-115 of this title shall not be deemed to authorize a parallel system of general public recreation to be carried on by a governmental unit within the same area in which another governmental unit is located and operating a similar program.
Laws 1977, c. 256, § 33-108, eff. July 1, 1978.

§11-33-109. Grants and devises of real property - Gifts and bequests.

Any governmental unit which may provide for or establish any recreation center or facilities as provided herein may accept any grant or devise of real estate, or any gift or bequest of money or other personal property or any donation to be applied (either principal or income) for either temporary or permanent use for playground or recreational centers or recreational purposes; but if the acceptance thereof for such purpose will subject such governmental unit to additional expense for improvement, maintenance or otherwise, the acceptance of any grant, devise or gift shall be subject to the approval of the governing body of such governmental unit. Money received for such purpose, unless otherwise provided by the terms of the gift or bequest, shall be deposited with the treasurer of the governmental unit to be a special account of the recreation center or activity and shall be considered as a continuing fund to be used for such purpose and shall not be considered as a part of the cash surplus on hand of the governmental unit for the purpose of making appropriations and levying taxes for the governmental unit.
Laws 1977, c. 256, § 33-109, eff. July 1, 1978.

§11-33-110. Bonds - Power to issue - Manner of issuance.

The governing body of the governmental unit may issue bonds, pursuant to law, provided that bonds of the governmental unit may be issued in the manner provided by law for the issuance of bonds for other functions, for the purpose of acquiring land or buildings for playgrounds, recreation centers, swimming pools and other recreational purposes, and for the equipment thereof.
Laws 1977, c. 256, § 33-110, eff. July 1, 1978.

§11-33-111. Petition for recreation programs - Submission of question to voters.

Whenever a petition is signed by at least five percent (5%) of the registered voters of a governmental unit requesting its governing body to provide, establish, maintain, conduct, either singly or jointly with one or more of the other governmental units specified herein, a recreation system and an appropriate amount of funds necessary for the establishment thereof, it shall be the duty of the governing body of the governmental unit to cause the question of establishment, maintenance and conduct of the recreational system or facilities to be submitted to the registered voters of the governmental unit, and the proposition of the issuance of bonds therefor to be voted on in a special or general election. Upon the adoption of the proposition, the governing body of the governmental unit shall by appropriate resolution or ordinance provide for the establishment, maintenance and conduct of such recreation center or other recreational purposes or facilities.
Laws 1977, c. 256, § 33-111, eff. July 1, 1978.

§11-33-112. Limitation of indebtedness - Approval of bonds and proceedings by Attorney General.

Any indebtedness created or bonds issued under authority of Sections 33-101 through 33-115 of this title shall be within the limitations and provisions of Sections 26 or 27, Article X of the Oklahoma Constitution. Any bonds or proceedings incident to the issuance shall be submitted to and approved by the Attorney General of Oklahoma, in the manner and with the effect provided in Sections 11, 13 and 14 of Title 62 of the Oklahoma Statutes.
Laws 1977, c. 256, § 33-112, eff. July 1, 1978.

§11-33-113. Buildings - Tax levy.

The governing body of a governmental unit may provide for the erection of buildings for any such recreational purposes or functions by providing for a tax levy therefor under the provisions of Section 10, Article X of the Oklahoma Constitution.
Laws 1977, c. 256, § 33-113, eff. July 1, 1978.

§11-33-114. Department of Tourism and Recreation - Aid and assistance - Existing authority not impaired.

The Oklahoma Tourism and Recreation Department may provide, upon request, to the governmental units of Oklahoma or to any nongovernmental agency or organization, aid and assistance in planning for the development of wholesome and adequate community recreation programs. The Department may provide a supervisor of recreation, who is technically trained, with adequate administrative experience in the field of community recreation, to encourage, consult with, aid and assist such governmental units and agencies in establishing recreation programs. The supervisor of recreation may encourage and render assistance in the promotion of training programs

for volunteer and professional recreation leaders in cooperation with other agencies, organizations and institutions, and may encourage the establishment of standards for recreation personnel. The Department may act jointly with other state agencies, institutions, departments, boards or commissions, to coordinate the park and recreational functions at the state level of government. Nothing in Sections 33-101 through 33-115 of this title shall be construed as limiting or impairing the authority or responsibility of any other department or agency of the State of Oklahoma under any other act.
Laws 1977, c. 256, § 33-114, eff. July 1, 1978.

§11-33-115. Public recreation law cumulative.

The provisions of Sections 33-101 through 33-115 of this title shall in no manner supersede or repeal any laws now in force or effect or any charter provisions of any municipality relating to municipal parks or park boards, but shall be cumulative to all such laws and charter provisions thereof.
Laws 1977, c. 256, § 33-115, eff. July 1, 1978.

§11-33-201. Municipality may lease or grant fishing and hunting privileges or licenses.

The governing body of any municipality owning or controlling lakes, ponds, streams or reservoirs for the purpose of furnishing water to the municipality may let, lease or rent, or issue privileges or licenses upon the water courses, lakes, ponds or reservoirs for the purpose of hunting, fishing and propagating fish, subject to rules and regulations as may be provided by the municipal governing body.
Laws 1977, c. 256, § 33-201, eff. July 1, 1978.

§11-33-202. Terms of leases - Exclusion of commercial propagation of fish.

No lease issued under the authority of Section 33-201 of this title shall be for a longer period than ten (10) years, nor shall any lease be given to any individual, corporation, or stock company which has for its purpose the propagation of fish for commercial purposes unless the governing body of the municipality determines that the lake, pond, stream, water course or reservoir has not been used for at least three (3) years for amusement or recreational purposes. However, if a lease contains a provision that the premises described in the lease shall be open to the public for free hunting and fishing privileges, then the lease may be for any period of time, not to exceed twenty-five (25) years.
Laws 1977, c. 256, § 33-202, eff. July 1, 1978; Laws 1991, c. 313, § 1, eff. Sept. 1, 1991.

§11-33-203. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-33-204. Docks, boathouses and boats - Powers of municipalities.

The governing body of any municipality owning lands, inside or outside of the corporate limits, which adjoin and abut upon a lake or large body of water capable of being used by a motor-propelled boat may own, construct, maintain, operate, and equip docks, boathouses, and boats for amusement and recreational purposes. The governing body may also lease or rent to any person lots or spaces and provide permits for the construction or use of privately owned boathouses or docks or other recreational purposes on such property for amusement and recreational purposes pursuant to such terms as the governing body deems proper. Said governing body may fix and collect fares, rents, tolls, or other revenues for the use of said facilities, lots and spaces, and the issuance of permits. The right of a municipality to own, construct, maintain, operate and equip said docks, boathouses, and boats, and to rent or lease such spaces and lots and the issuance of permits for the construction or use of such privately owned docks or boathouses for amusement and recreational purposes is hereby declared to be a public right and use. Rent and lease of such lots and spaces shall be at fair market value. Except in cases of rentals and leases authorized herein, said right and facilities shall constitute a public benefit. The municipal governing body may do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to further the ability of the municipality to provide for the amusement and recreational services authorized by the provisions of this section.

Amended by Laws 1984, c. 126, § 63, eff. Nov. 1, 1984; Laws 1991, c. 152, § 1, eff. Sept. 1, 1991.

§11-33-205. Establishment of fish and game commission - Appointment - Powers.

The governing body of any municipality having a municipally-owned lake or lakes may provide by ordinance for the creation of a municipal Fish and Game Commission, and establish the number of members, their terms, and manner of appointment. The municipal Fish and Game Commission shall exercise control and supervision over the hunting and fishing privileges on and around such lake or lakes and the improvement of such lake or lakes for hunting and fishing. The Commission shall fix the fees to be charged for hunting and fishing, and have such other power and authority as may be provided by the ordinances of the municipality.

Laws 1977, c. 256, § 33-205, eff. July 1, 1978.

§11-34-101. Police officers.

A. A municipal police officer shall at all times have the power to make or order an arrest for any offense against the laws of this

state or the ordinances of the municipality. The officer shall have such other powers, duties and functions as may be prescribed by law or ordinance.

B. In addition to regular full-time municipal police officers, reserve municipal police officers may also be appointed by the chief of police. Reserve municipal police officers shall have the powers, duties and functions as set forth in law or ordinance for regular full-time municipal police officers, including serving as police officers in another municipality requesting assistance pursuant to Section 34-103 of this title. A reserve municipal police officer shall serve on a part-time basis and shall perform duties only while on authorized duty. Noncompensated reserve municipal police officers may serve as dispatchers or confinement officers at municipal jails. Part-time reserve officers shall serve not more than one hundred forty (140) hours per calendar month.

Such reserve municipal police officers must meet the minimum requirements of Section 3311 of Title 70 of the Oklahoma Statutes.
Added by Laws 1977, c. 256, § 34-101, eff. July 1, 1978. Amended by Laws 1981, c. 134, § 1, eff. Oct. 1, 1981; Laws 1997, c. 228, § 1, emerg. eff. May 20, 1997; Laws 2000, c. 162, § 2, eff. Nov. 1, 2000; Laws 2010, c. 78, § 1, eff. Nov. 1, 2010.

§11-34-101.1. Certification of police officers – Psychological evaluation.

For purposes of the certification of municipal police officers pursuant to state law, the employing municipality shall use a psychological instrument approved by the Council on Law Enforcement Education and Training. The employing municipality shall administer such psychological instrument in accordance with standards established within the test document. To aid the evaluating psychologist in interpreting the test results, including automated scoring and interpretations, the municipal employer shall provide the psychologist a statement confirming the identity of the individual taking the test as the person who is employed or seeking to be employed as a police officer of the municipality and attesting that it administered the psychological instrument in accordance with standards within the test document. The psychologist shall report to the employing municipality the evaluation of the assessment instrument and may include any additional recommendations to assist the employing municipality in determining whether to certify to the Council on Law Enforcement Education and Training that the person being evaluated is suitable to serve as a police officer. No additional procedures or requirements shall be imposed for performance of the psychological evaluation.
Added by Laws 2006, c. 301, § 5, eff. Nov. 1, 2006.

§11-34-102. Chief of police - Powers, duties and functions - Qualifications.

A. The chief of police of a municipality shall be a peace officer and shall enforce the municipal ordinances. The chief of police of a municipality shall have such other powers, duties and functions as may be prescribed by law or ordinance.

B. Any person elected or appointed to the position of chief of police of a municipality shall meet the following qualifications:

1. Be at least twenty-one (21) years of age;

2. Be a citizen of the United States;

3. Possess at least a high school diploma or General Education Diploma (GED);

4. Be certified as a peace officer in this state by the Council on Law Enforcement Education and Training (CLEET), or meet all requirements necessary for CLEET certification and obtain such certification within six (6) months of assuming the position of chief of police or as otherwise allowed by Section 3311 of Title 70 of the Oklahoma Statutes; and

5. Have successfully completed a course of training meeting at least the minimal criteria established by the Council on Law Enforcement Education and Training (CLEET) for police chief administration, successfully completed an approved police chief administrative school which has been developed by the Oklahoma Association of Chiefs of Police and approved by the Council within twelve (12) months of assuming the position of chief of police.

C. 1. Any person who does not meet the qualifications of paragraph 4 or 5 of subsection B of this section at the time of election or appointment to the position of chief of police and who fails after assuming the position of chief of police to meet such qualifications within the time required shall have their CLEET certification revoked for the purpose of serving as chief and be removed from the position.

2. Any person assuming the position of chief of police without prior CLEET certification who fails to complete an approved course of training or police chief administration school within the time required shall be precluded from obtaining CLEET certification while in such position.

D. The Council on Law Enforcement Education and Training (CLEET) shall establish minimal criteria for the qualifications of paragraph 5 of subsection B of this section relating to a course of training and police chief administration schools and approve all training offered in this state relating to police chief administration. The Oklahoma Association of Chiefs of Police in consultation and cooperation with the Council is directed to develop a Police Chief Administrative School consisting of training courses that meet at least the minimal criteria established by the Council.

E. The provisions of this act relating to qualifications for a chief of police shall not apply to any person who has assumed the position of chief of police and is currently serving as the chief of police of a municipality on or before November 1, 2006.
Added by Laws 1977, c. 256, § 34-102, eff. July 1, 1978. Amended by Laws 2006, c. 33, § 1, eff. Nov. 1, 2006; Laws 2013, c. 232, § 1, eff. Nov. 1, 2013.

§11 34 103. Performance of police functions outside employing municipality.

A. Commissioned police officers of the regular police department of any municipality, upon request of the mayor or a designee, or chief of police or a designee, of any other municipality, may serve as police officers in the municipality requesting their assistance upon approval of the governing body of the municipality where such officers are regularly employed. While so serving in another municipality, such police officers shall have the same powers and duties as though employed by the municipality where such duties are performed; except that salaries, insurance and other benefits shall be provided in their regular manner by the municipality in which the police officers are regularly employed.

B. Commissioned police officers of the regular police department of any municipality, upon request of a county sheriff or a designee, or upon request by a commissioned law enforcement officer of the Oklahoma Highway Patrol, may serve as law enforcement officers for the sheriff's office or the Oklahoma Highway Patrol, respectively, if such service has been authorized by prior resolution by the governing body of the municipality where such officers are regularly employed. While so serving, such police officers shall have the same powers and duties as though employed by the requesting law enforcement agency and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency; except that salaries, insurance and other benefits shall be provided in their regular manner by the municipality in which the police officers are regularly employed.

C. Commissioned police officers of the regular police department of any municipality may be deputized by the county sheriff or a designee subject to an interlocal governmental agreement to combine city and county law enforcement efforts and to encourage cooperation between city and county law enforcement officials. Liability for the conduct of any municipal police officers deputized under the terms and conditions of an interlocal governmental agreement shall remain the responsibility of their municipal employer.

D. The governing body of a municipality may, by resolution, authorize the chief executive officer of the municipality to respond to any request from any other jurisdiction within the state for law enforcement assistance in cases of emergency. The police officers of

the municipality serving in response to the emergency request shall have the same powers and duties as though employed by the requesting law enforcement agency and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency; provided, however, that salaries, insurance and other benefits shall be provided in the regular manner by the municipality in which the police officers are regularly employed.

As used in this section, "emergency" means a sudden and unforeseeable occurrence or condition either as to its onset or its extent of such severity or magnitude that immediate response or action is necessary to assist law enforcement agencies having jurisdiction at the scene of the emergency to carry out their functions.

Added by Laws 1977, c. 256, § 34-103, eff. July 1, 1978. Amended by Laws 1979, c. 7, § 1, emerg. eff. March 30, 1979; Laws 1987, c. 63, § 1, emerg. eff. May 4, 1987; Laws 1988, c. 96, § 1, emerg. eff. April 1, 1988; Laws 1992, c. 285, § 2, emerg. eff. May 25, 1992; Laws 1996, c. 174, § 1, emerg. eff. May 14, 1996; Laws 2007, c. 62, § 1, emerg. eff. April 30, 2007.

§11-34-104. Disposition of personal property or money or legal tender.

A. Any chief of police is authorized to dispose of personal property or money or legal tender as provided in this section or the charter of the municipality, which has come into the possession of the chief of police in any manner if:

1. The owner of the personal property or money or legal tender is unknown or has not claimed the property;

2. The property or money or legal tender has been in the custody of the chief of police for at least ninety (90) days; and

3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

B. The chief of police shall file an application in the district court in which the situs of government of the municipality is located requesting the authority of the court to conduct a sale of the personal property which has a fair market value of more than its face value. The chief of police shall attach to the application a list describing the property including any identifying numbers and marks, the date the property came into the possession of the chief of police, and the name of the owner and the person in last possession, if different, and the address of the person, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application.

C. In any instance where the property has an actual or apparent value of more than Two Hundred Fifty Dollars ($250.00), at least ten (10) days prior to the date of the hearing, written notice of the

hearing shall be sent by first-class mail, postage prepaid, to each owner at the address as listed in the application. If the owner of any property with an actual or apparent value exceeding Five Hundred Dollars ($500.00) is unable to be served written notice by first-class mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. The notice shall contain a brief description of the property of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of municipal notices, and at two other public places in the municipality.

D. If no owner appears and establishes ownership to the property at the hearing, the court shall enter an order authorizing the chief of police to dispose of the property as follows:

1. Donate the property having value of less than Five Hundred Dollars ($500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by needy families;

2. Sell the personal property for cash to the highest bidder, after at least five (5) days' notice of the sale has been published;

3. Transfer the property to a third-party agent under contract with the governing body of the chief of police for sale by Internet or other electronic means, regardless of whether the sale structure or distribution site is within the State of Oklahoma; or

4. By any other means as determined appropriate by the court, including but not limited to, destruction.

Regardless of the means of disposition, the chief of police shall make a return of the donation or sale and the order of the court confirming the donation or sale shall vest title to the property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of the personal property shall be deposited in the municipal general fund.

E. All money or legal tender which has come into the possession of the chief of police pursuant to the circumstances provided for in subsection A of this section shall be transferred by the chief of police to the municipal clerk for deposit in the municipal general fund. Prior to any transfer, the chief of police shall file an application in the district court requesting the court to enter an order authorizing the chief of police to transfer the money for deposit in the municipal general fund. The application shall describe the money or legal tender, the date the same came into the possession of the chief of police, and the name of the owner and the address of the owner, if known. Upon filing the application which may be joined with an application as described in subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in subsection C of this section. The notice shall state that upon failure of anyone

to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B of this section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

F. The provisions of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in the order.

G. The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. The procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finders identity with the police department or other agent of the municipality. Only property in which the finder relinquishes any future claim to its ownership will be stored in municipal police property rooms.

H. The municipality may provide by ordinance that a percentage of the money or legal tender deposited in the municipal general fund as provided in subsection D or E of this section may be paid as a finders fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the chief of police or other agent of the municipality.

Added by Laws 1983, c. 294, § 1, eff. Nov. 1, 1983. Amended by Laws 1985, c. 73, § 1, emerg. eff. May 16, 1985; Laws 1989, c. 255, § 4, emerg. eff. May 19, 1989; Laws 1990, c. 44, § 1, emerg. eff. April 5, 1990; Laws 1995, c. 45, § 1, eff. Nov. 1, 1995; Laws 1998, c. 234, § 3, eff. Nov. 1, 1998; Laws 2003, c. 91, § 1, eff. Nov. 1, 2003; Laws 2005, c. 56, § 1, eff. Nov. 1, 2005; Laws 2010, c. 73, § 1, eff. Nov. 1, 2010; Laws 2012, c. 166, § 1, eff. Nov. 1, 2012.

NOTE: Laws 2010, c. 111, § 1 repealed by Laws 2011, c. 1, § 8, emerg. eff. March 18, 2011.

§11-34-105. Management and operation of jail facilities by Department of Corrections or private prison contractor.

A. The governing body of any city or town is authorized to enter into professional services contracts with the State Department of Corrections for the housing of state prisoners in any facility approved by the State Department of Corrections or private contractors for the management and operation of any jail owned by the

city or town or for the incarceration of inmates in facilities owned and operated by the city or town. Such services shall meet any standards prescribed and established for jails in this state, including but not limited to standards concerning internal and perimeter security, discipline of inmates, employment of inmates, and proper food, clothing, housing, and medical care. Contracting procedures shall be pursuant to municipal ordinances. Said contracts shall be entered into for a period not to exceed fifty (50) years, subject to annual appropriation by the governing body of the city or town. Said contracts shall be valid for a fiscal year only if the governing body of the city or town provides an appropriation for the contract for the fiscal year.

B. Any contract between a city or town and private prison contractor, whereby the contractor provides for the housing, care, and control of inmates in a facility owned and operated by the contractor, shall contain provisions granting the city or town the option at the beginning of each fiscal year to purchase, at a predetermined price any such facility.

C. No contract authorized by the provisions of this section shall be awarded until the private contractor demonstrates to the satisfaction of the governing body:

1. that the contractor has the necessary qualifications and experience to provide the services specified in thecontract;

2. that the contractor has the necessary qualified personnel to implement the terms of the contract;

3. that the financial condition of the contractor is such that the terms of the contract can be fulfilled;

4. that the ability of the contractor to obtain insurance or provide self-insurance to:

a. indemnify the city or town against possible lawsuits arising from the operation of jail facilities by the contractor, and

b. compensate the city or town for any property damage or expenses incurred due to the operation of jail facilities; and

5. that the contractor has the ability to comply with applicable court orders and jail standards.

D. A person designated by the governing body of the city or town shall monitor implementation of the contract.

E. A private contractor, in implementing a contract pursuant to the provisions of this section, shall not be bound by state laws or other legislative enactments which govern the appointment, qualifications, duties, salaries or benefits of jailers or other employees of the jail facilities, except that any personnel authorized to carry and use firearms shall comply with the certification standards required by the provisions of Section 3311 of Title 70 of the Oklahoma Statutes and be authorized to use firearms

only to prevent the commission of a felony, to prevent escape from custody, or to prevent an act which would cause death or serious bodily injury to the personnel or to another person.

F. Except as otherwise provided, any state law or municipal ordinance governing municipal jails shall apply to jail facilities operated by a private contractor.

G. Any offense which would be a crime if committed within a municipal jail also shall be a crime if committed in a jail facility operated by a private contractor.

Added by Laws 1987, c. 80, § 10, operative July 1, 1987. Amended by Laws 1987, c. 205, § 28, operative July 1, 1987.

§11-34-106. Use of unmarked vehicle prohibited – Official uniform required.

The State of Oklahoma hereby declares and states that the increased number of persons impersonating law enforcement officers by making routine traffic stops while using unmarked cars is a threat to the public health and safety of all the citizens of the State of Oklahoma; therefore it shall be unlawful for any municipal police department to use any vehicle which is not clearly marked as a law enforcement vehicle for routine traffic enforcement except as provided in Section 12-218 of Title 47 of the Oklahoma Statutes. In addition to Section 12-218 of Title 47 of the Oklahoma Statutes, the peace officer operating the law enforcement vehicle for routine traffic stops shall be dressed in the official uniform including shoulder patches, badge, and any other identifying insignias normally used by the employing law enforcement agency.

Added by Laws 1999, c. 24, § 1, eff. July 1, 1999. Amended by Laws 2003, c. 33, § 2, eff. Nov. 1, 2003.

§11-34-107. Safety and liability policies.

A. Beginning January 1, 2016, every municipal police department shall have adopted policies in place that at a minimum address the following safety and liability issues, including but not limited to:

1. Search and seizure;
2. Arrest and alternatives to arrest;
3. Strip and body cavity searches;
4. Evidence and property management;
5. Inventories and audits;
6. Use of firearms and use of force;
7. Pursuit driving;
8. Impartial policing/racial profiling;
9. Mental health;
10. Professional conduct of officers;
11. Domestic abuse;
12. Response to missing persons; and
13. Supervision of part-time officers.

B. The Oklahoma Association of Chiefs of Police shall possess the responsibility of conducting compliance reviews for Oklahoma Municipal Law Enforcement Agencies. Compliance reviews shall be conducted upon receipt of a complaint or reasonable cause to believe that the agency has failed to comply with safety and liability policy requirements.

C. A complaint against a municipality for noncompliance with this section shall be submitted in writing to the Oklahoma Association of Chiefs of Police, the Director of CLEET and the municipality pursuant to the provisions of Section 22-103 of Title 11 of the Oklahoma Statutes. Upon notification, the municipality shall have six (6) months to come into compliance. If the agency has not come into compliance after six (6) months, the Oklahoma Association of Chiefs of Police shall notify in writing the chief elected official of the governing body of the law enforcement agency, the chief law enforcement officer of the law enforcement agency, and the liability insurance company of the law enforcement agency. If after six (6) months a municipality has not reached full compliance with the requirements of this section, the Oklahoma Association of Chiefs of Police may request the Director of CLEET for an additional six (6) months if it is determined the municipality is substantially attempting to comply with the requirements herein.
Added by Laws 2013, c. 232, § 2, eff. Nov. 1, 2013. Amended by Laws 2019, c. 131, § 1, eff. Nov. 1, 2019.

§11-34-108. Impaired driver arrest report.

In any case in which a person is arrested for driving under the influence of alcohol or other intoxicating substance, an impaired driver arrest report shall be completed by the municipal law enforcement officer who made the arrest and shall be entered into the impaired driver database created pursuant to Section 8 of this act.
Added by Laws 2016, c. 172, § 3, eff. Nov. 1, 2016.

§11-35-101. Extension of utility lines and service beyond corporate limits.

Any municipality owning or operating its own system of generating or distributing energy or utilities, and any municipality engaged in the distribution of energy or utilities, may extend its lines, mains, and channels together with necessary appurtenances beyond the corporate limits of the municipality. Such municipality may acquire, erect, construct and own all necessary poles, wire, lines, pipelines, mains, channels together with necessary appurtenances, apparatus and substations, and acquire rights-of-way, and do all other things necessary and proper in carrying on the business outside of the corporate limits of the municipality to the same effect as it may now do within the corporate limits of the municipality. Such municipality may construct or acquire lines, pipelines, mains or

channels together with necessary appurtenances by purchase or otherwise and may sell such service to any person, firm or corporation outside of the limits of the municipality.
Amended by Laws 1987, c. 23, § 2, eff. Nov. 1, 1987.

§11-35-102. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-35-102.1. Disposition of proceeds from investment of meter deposit funds.

The proceeds from any investments of meter deposit funds and any other earnings therefrom shall be considered to be profit derived from the investment and shall be placed in the fund from which the operation and maintenance expenses of the utility, for which the meter deposits invested were collected, are paid. The investment of such funds by the municipality shall in no manner impair its obligation to any person, firm or corporation, to refund in full any or all deposits theretofore or thereafter made.
Added by Laws 1995, c. 166, § 5, emerg. eff. May 4, 1995.

§11-35-103. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-35-104. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-35-105. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-35-106. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-35-107. Utility deposit - Refund - Notice - Forfeiture.

A. Money in the municipal treasury which has been acquired as a utility deposit from a customer of a municipal utility shall be refunded or credited to the customer upon termination of the utility service and payment of all charges due and connected with the service, or at an earlier date as may be allowed by the municipality. Refunds to the customer shall be made in accordance with the procedures set forth in this section.

B. If a utility deposit is to be refunded to the customer instead of being credited to the account of the customer, a refund check or warrant payable to the customer shall be issued by the municipal utility within thirty (30) days following the termination of the utility service.

C. Utility deposit refund checks or warrants of Five Dollars ($5.00) or less shall be cashed by the customer within one (1) year of the termination of the utility service. Any such refund check or warrant not cashed by the customer within one (1) year of termination of the utility service shall be cancelled and the amount of the deposit shall be paid into the fund of the municipal utility for which the deposit was collected, or into the general fund as may be

determined by the municipal governing body. No municipal utility customer shall have the right to any claim or refund on the deposit following the expiration of the one-year time period as set forth in this subsection.

D. If a utility deposit refund check or warrant in excess of Five Dollars ($5.00) has not been cashed by a customer within one (1) year following termination of the utility service to the customer, the municipality shall send written notice to the customer at the last-known address of the customer stating that the refund check or warrant shall be cancelled and the deposit will be paid over to the municipality unless it is cashed by the customer within ninety (90) days of the date the notice is mailed by the municipality. If the check or warrant is not cashed within the ninety (90) days, the check or warrant shall be cancelled and the amount of the deposit shall be paid into the fund of the municipal utility for which the deposit was collected, or into the general fund as may be determined by the governing body. No municipal utility customer shall have a right to any claim or refund on the deposit after written notice and expiration of the ninety-day period in accordance with this subsection.

Added by Laws 1980, c. 253, § 1, eff. Oct. 1, 1980. Amended by Laws 1991, c. 124, § 17, eff. July 1, 1991; Laws 1998, c. 234, § 4, eff. Nov. 1, 1998; Laws 2000, c. 104, § 1, eff. Nov. 1, 2000.

§11-35-201. Sale or lease of municipally owned public utility - Applicability - Charters.

The provisions of this section through Section 35-205 of this title relating to the procedure for selling or leasing municipally owned public utilities shall apply when the municipally owned public utility is to be sold or leased in its entirety and its fair market value exceeds Ten Thousand Dollars ($10,000.00). The provisions of this section through Section 35-205 of this title shall not apply to any sale of property of a municipality to the state or any agency or county thereof or any sale or lease to a public trust of which the municipality is the sole beneficiary. Any municipality governed by charter, when authorized by said charter, may sell, convey, or lease any public utility owned by the municipality without conducting an election as provided for in Section 35-203 of this title. For purposes of this section through Section 35-205 of this title, "public utility" shall be interchangeable with "public utilities, works and ways" and shall include municipally owned parks, lakes and recreation areas.

Added by Laws 1977, c. 256, § 35-201, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 64, eff. Nov. 1, 1984; Laws 1995, c. 166, § 6, emerg. eff. May 4, 1995.

§11-35-202. Necessity of voter authorization prior to sale or lease of public utility.

No public utility owned by any municipality, as defined in Section 35-201 of this title, shall be sold, conveyed, leased or otherwise disposed of by the municipal governing body unless such sale, lease, conveyance, or other disposal of such utility shall be authorized by the vote of a majority of the registered voters of the municipality voting on the question at an election to be held for such purpose.

Laws 1977, c. 256, § 35-202, eff. July 1, 1978.

§11-35-203. Procedure for sale or lease of public utility - Notice - Election.

The procedure for the sale or lease of a municipally-owned public utility shall be as follows:

1. When the governing body of any municipality, as defined in Section 35-201 of this title, desires to offer for sale or lease any public utility belonging to the municipality, it shall authorize by resolution the proper officers of the municipality to give notice and advertise for bids. The notice shall state that on a specified day the governing body will receive open bids for the sale or lease of the public utility. The notice shall also state the requirements for submission of bids, as provided in Section 35-204 of this title; 2. The notice shall be published in two (2) consecutive issues of a newspaper of general circulation in the municipality. The two publications shall be seven (7) days apart, and the first publication of the notice shall be at least fifteen (15) days before open bids will be received;

3. The municipal governing body shall receive bids on the specified date and select the highest and best bid for the sale or lease of the public utility, if satisfactory to the governing body;

4. After selecting the highest and best bidder, the governing body shall, by ordinance, call for an election for the submission of the following propositions to the registered voters of the municipality:

a. the question of the proposed sale or lease of the public utility to the highest and best bidder, and;

b. at the same time, the question of the granting of a franchise to the bidder if such a franchise is required by the Oklahoma Constitution.

The questions shall be submitted on the same day. If a franchise is required by the Oklahoma Constitution, the sale of the utility shall be conditioned upon the franchise being granted to the bidder by vote of the people at the election. The election shall be conducted in the manner provided by law for the granting of franchise; and

5. If the highest and best bidder for the public utility under the procedure herein defined shall be the owner of a competing

utility operating under a valid franchise or permit, it shall be necessary only to submit to the registered voters the question of the sale of the municipal utility.
Laws 1977, c. 256, § 35-203, eff. July 1, 1978.

§11-35-204. Sale to be for cash - Bids - Payment.

The sale of any public utility, when authorized by the registered voters, shall be for cash to the highest and best responsible bidder. Each bid shall be accompanied with a certified check payable to the clerk of the municipality for ten percent (10%) of the amount bid. The check shall be cashed by the treasurer of the municipality if the bid to which the check is attached is accepted, and the proceeds thereof shall be held to secure the municipality in damages it might sustain upon the failure of the bidder to pay the amount bid for the utility. The balance of the purchase price shall be payable in cash by the successful bidder upon the execution and delivery of proper legal conveyances and of the property thereby conveyed. The public utility shall not be delivered, nor shall the right to participate in any portion of the income derived therefrom accrue to the purchaser until full payment in cash of the amount of the bid for such utility is made. Securities in which municipal treasurers are authorized by law to invest sinking funds may be accepted in lieu of cash.
Laws 1977, c. 256, § 35-204, eff. July 1, 1978.

§11-35-205. Conveyance.

If the sale or lease is authorized at the election on the question, and the franchise is granted, then the governing body of the municipality shall convey the utility to the purchaser by proper legal instruments.
Laws 1977, c. 256, § 35-205, eff. July 1, 1978.

§11-35-206. Expenditures for conservation of electricity or natural gas by public agencies.

The Oklahoma State Legislature hereby determines that expenditures of funds for the purposes of the conservation of electricity or natural gas by public agencies is in the public interest. In furtherance of this public interest, municipally owned utilities or public trusts thereof or the Grand River Dam Authority may expend, with governing board approval, funds to assist consumers in the establishment of energy conservation activities if there is a defined and measurable conservation of energy. The expenditures may be made subsequent to achievement of measures outlined in an energy audit or an engineering audit of the consumer’s operations.
Added by Laws 2009, c. 205, § 1, eff. Nov. 1, 2009.

§11-36-101. Powers of municipalities.

The title to streets, roads and public ways within the limits of a municipality which have been dedicated and accepted by the municipal governing body is held by the municipality in trust for public use and enjoyment.

A municipal governing body may, in the manner provided by law:

1. Regulate and control the use of streets, roads and other public ways within the limits of the municipality;

2. Authorize the execution of any and all contracts, easements and permits for the use of roads, streets, and other public ways as the governing body deems to be in the public interest;

3. Establish and change the grade of any street, avenue, lane, alley or other place;

4. Open, straighten, widen, extend or improve any street, avenue, lane, alley or other place by grading, paving, constructing, macadamizing, chatting or graveling, curbing, guttering, draining or otherwise improving the same;

5. Install necessary manholes, catch basins, culverts, inlets and drainage pipes, sewers with necessary connections thereto for the purpose of providing for the adequate disposition of surface water falling on such improvements or carried thereon;

6. Construct, reconstruct, raise, lower, widen or repair sidewalks;

7. Authorize and regulate tunnels, walkways and other structures for public travel under and above public streets and roads; or

8. Make all necessary utility connections whenever the public necessity may require such improvements.

Laws 1977, c. 256, § 36-101, eff. July 1, 1978.

§11-36-101A. Physically disabled parking and access - Construction and signage.

A. Cities and towns are hereby authorized to construct and provide parking spaces, curb cuts, ramps and signage for physically disabled parking and access for use in conjunction with facilities, both public and private, open to the general public. The city or town may bear the cost of such construction, or at the option of the city or town and the owner of such facilities, share the cost of such construction with the owner of such facilities.

B. Beginning January 1, 2010, the posted signage for every parking space that is designated and posted as a reserved area for the parking of a motor vehicle operated by or transporting a physically disabled person shall display sign R7-8, as provided in the latest edition of the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration of the United States Department of Transportation, which includes the words “RESERVED PARKING” and the blue and white international symbol of access. Van-accessible physically disabled reserved parking spaces shall also display sign R7-8a immediately below sign R7-8. Municipalities shall

adopt ordinances in compliance with this subsection by January 1, 2010. The provisions of this section shall be considered an addition to any federal or state law, rule or regulation regarding the signage requirements for physically disabled parking spaces and shall not limit or amend any other applicable laws, rules or regulations.

C. The blue and white international symbol of access, accompanied by appropriate language including, but not limited to, "Handicapped Parking", "Reserved for Handicapped" and "Permit Required-Towing Enforced" may be used in lieu of sign R7-8 if the sign was erected prior to January 1, 2010.

Added by Laws 1990, c. 332, § 2, emerg. eff. May 30, 1990. Amended by Laws 2009, c. 35, § 1, eff. Nov. 1, 2009.

§11-36-102. Resurfacing streets - Procedures and payment of cost.

Regardless of the type or character of the existing surface, the municipal governing body may resurface, with such material or materials as the governing body deems proper, any street, avenue, boulevard, lane, or alley, or any part or parts thereof, within the municipality, which has heretofore been paved, macadamized, black-topped, chatted, graveled, or otherwise improved. The municipality may pay, or provide for payment of, the cost of the resurfacing in any manner or by any procedure provided by statute for the paving, macadamizing, black-topping, chatting, graveling, or otherwise permanently improving streets, avenues, lanes, and alleys in municipalities. The governing body, in its discretion, may also provide for the payment of any portion of the cost of the resurfacing from the street and alley fund of the municipality; from revenue from parking meters; or from any funds derived from leasing or other uses of streets and alleys, or other funds available for the maintenance and repair of such streets, avenues, boulevards, lanes or alleys. In addition to using any of the above-mentioned funds, the municipal governing body may also provide for the apportionment and assessment of the balance of the cost of resurfacing against the real property benefited thereby, in the manner provided by statute for the apportionment and assessment of the cost of permanent street improvements against property benefited thereby.

Laws 1977, c. 256, § 36-102, eff. July 1, 1978.

§11-36-103. Sidewalk improvements generally.

For constructing and repairing sidewalks, and bringing them to grade for that purpose, the governing body may:

1. Issue or sell bonds in the same manner as provided in Section 22-128 of this title for issuing bonds for public improvements; or

2. Make assessments on all lots and pieces of ground abutting on the improvement, according to the front foot thereof, and proceed with improving sidewalks in the manner provided for "Street Improvements". When streets and sidewalks are graded, paved and

built at the same time, assessments for such improvements shall be made at the same time and by the same appraisers.
Amended by Laws 1982, c. 42, § 1, operative July 1, 1982.

§11-36-104. Emergency sidewalk repairs - How made - Notice to owner.

Whenever the municipal governing body deems it necessary for the public safety to repair any sidewalk in the municipality which has been or may hereafter be constructed, it may declare, by resolution, an emergency to exist for the protection of the public safety, by reason whereof it is necessary to make the repairs immediately. Upon the adoption of the resolution, notice shall be given to the owner or occupant of the property directing him to make the repairs within three (3) days after the service of the notice. If the owner or occupant cannot be found, the notice may be served by posting a copy of the notice upon the lot or parcel or real property abutting upon the portion of the street where the sidewalk repairs are necessary. If the repairs are not completed within the three-day period, as directed in the notice, the municipality may proceed to construct or repair the sidewalk, or let a contract therefor without advertisement. The cost of making the repairs shall then be assessed against the abutting property in the manner provided for sidewalk improvements. All such assessments which amount to Ten Dollars ($10.00) or less shall be paid in one installment at the next tax paying period after the amount is certified.
Laws 1977, c. 256, § 36-104, eff. July 1, 1978.

§11-36-105. Granting right to close, alter or appropriate roads or streets for certain purposes.

A. A municipal governing body, by and with the written approval of the State Highway Commission insofar as state and federal highways may be affected, may grant to the United States of America, or any irrigation district, conservancy district, or water users' association, organized under the laws of Oklahoma, the right to close, inundate, destroy, alter, or appropriate any municipal roads or streets in the municipality in connection with the construction, development, operation, or maintenance of any irrigation, reclamation, water conservation and utilization, flood control, military, or national defense project, for needful public buildings, or other public projects being constructed, operated, developed, or maintained by the United States of America, or any such district or association, upon such terms and conditions and for such consideration as the governing body may determine to be just and proper.

B. The municipal governing body may authorize the execution of, and the mayor or other chief official shall in accordance with such authorization have the power to execute, any and all contracts, deeds, easements, and other instruments of conveyance as may be

required in or convenient to the exercise of the powers granted in this section.
Laws 1977, c. 256, § 36-105, eff. July 1, 1978.

§11-36-106. Title to trees, shrubbery and parking abutting streets - Injury to - Powers of municipality.

The owners of real estate situated in municipalities abutting upon public streets and avenues in the municipality shall have, subject to the lawful supervision of the municipality over its streets, such title to and right to property in

1. Growing trees situated in front of such real estate, but within the boundary line of the streets and avenues, and within the curb line; or

2. Parking and ornamental shrubbery planted and cultivated within the curb line of the streets and avenues;

so as to enable the owners, in case of wrongful injury or destruction of the trees, shrubbery or parking, to recover from the person or corporation causing the injury or destruction the full damages which the abutting property in front of which they are situated may sustain by reason thereof, notwithstanding the fee title to the land in such streets and avenues may not be in the owner of the abutting property. The abutting property owners shall also have, subject to the limitations provided in this section, the right of action in any court of competent jurisdiction to enjoin wrongful injury to or destruction of the trees, shrubbery or parking. The necessary trimming of such trees or shrubbery to permit the proper stringing and passage of utility and other wires shall not be considered as a wrongful injury. Nothing in this section shall deprive the municipal governing body of the ordinary supervision of its streets, or of the right to direct, by proper ordinance, the manner of planting or cultivating such trees, shrubbery or parking, on the part of the street where they shall be so planted and cultivated, and from exercising reasonable supervision of the same, and causing them to be trimmed and grown in such manner as not to interfere with public travel upon the streets and sidewalks or other public use.
Laws 1977, c. 256, § 36-106, eff. July 1, 1978.

§11-36-107. Encroachments and obstructions in streets.

The governing body may prohibit and prevent all encroachments into and upon the sidewalks, streets, avenues, alleys and other property of the municipality, and may provide for the removal of all obstructions from the sidewalks, curbstones, gutters and crosswalks, at the expense of the owner or occupier of the grounds fronting thereon, or at the expense of the person placing the encroachment there. The governing body may also regulate the planting and protection of shade trees in streets, the building of bulkheads, cellar and basement ways, stairways, railways, windows and doorways,

awnings, lamp posts, awning posts, and all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks, or along any streets of the municipality.
Laws 1977, c. 256, § 36-107, eff. July 1, 1978.

§11-36-108. Encroachments not exceeding twenty-four inches - Quitclaim deed.

A municipal governing body, in its discretion, may execute and deliver to the owners of a building, business or religious institution a quitclaim deed to that part of the municipality's streets or alleys which have been inadvertently encroached by such building or institution under the following conditions: 1. The governing body finds that a residential building, business, or religious institution located in the municipality has inadvertently encroached not to exceed twenty-four (24) inches on a street or alley of the municipality by constructing a part of a building thereon, which encroachment is of such limited character as not to interfere with traffic on the street, alley, or on any sidewalk located thereon; 2. All the building facing the street are in substantial line with each other; 3. The encroachment has existed continuously for more than fifteen (15) years last past; 4. In the opinion of the governing body the encroachment does not interfere with traffic on the street, alley, or sidewalk; and 5. Payment is made to the municipality of an amount which the governing body finds to be a reasonable cash value of the property so conveyed. This section shall no apply in cases of encroachments accomplishedafter May 27, 1975.
Laws 1977, c. 256, § 36-108, eff. July 1, 1978.

§11-36-109. Ordinances and rules for making assessments for improvements - Expense of connections.

When a petition for improvement is presented, or when the municipal governing body shall have determined to pave or otherwise improve any street, avenue, lane, alley or other public place, and shall have passed the required resolution, the governing body shall then have the power to:

1. Enact all ordinances, and to establish all rules and regulations as may be necessary to require the owners of all property subject to assessment to pay the cost of such improvement; or

2. Cause to be put in and constructed all utility lines and connections in and underneath the streets, avenues, lanes and alleys, and other public places where the improvements are made.

All cost and expense for making utility connections which are not paid for by the property owner may be contracted for by the municipality and shall be taxed as a direct charge against the

property, and shall be included in and made a part of the assessment to cover the cost of the improvement.
Laws 1977, c. 256, § 36-109, eff. July 1, 1978.

§11-36-110. Contract for service of engineers for making improvements.

A municipal governing body may contract for the services of consulting engineers to prepare the necessary surveys, plans, plats, profiles, estimates and all other details for the work of improvements and to supervise the work. The consulting engineer may be a person, firm or corporation, resident in or outside the State of Oklahoma, duly registered as an engineer in the State of Oklahoma. The consulting engineer may be employed also to furnish the necessary advertising, printing, appraising, transcripts and other expense as may be necessary. The municipality shall provide for the payment of such services and expenses from the assessments to be levied against the abutting property as part of the cost of the improvement.
Laws 1977, c. 256, § 36-110, eff. July 1, 1978.

§11-36-111. Change of grade - Compensation to abutting owners.

No change of any grade previously established by a municipality shall be made without making due compensation to the owners of abutting property for any damage thereby caused to permanent improvements erected on the abutting property with reference to the grade previously established. However, the failure to make such compensation shall not invalidate any assessments on the property chargeable with costs of a grade change as provided by law on street improvements.
Laws 1977, c. 256, § 36-111, eff. July 1, 1978.

§11-36-112. Intersections and crossings - Participation by counties and state highway commission in street improvements.

A. The municipal governing body, in its discretion, may provide for the payment of the cost for improving street intersections and alley crossings out of the general revenues.

B. The State Highway Commission is authorized in its sole discretion to enter into agreements with the governing body of any municipality for participation with State Highway Construction and Maintenance Funds in the cost of any improvements on streets which are a part of the State Highway System. Such agreements may provide for the award and supervision of the contract by the municipality. The state's share of the cost is to be due and payable upon completion of the project.

C. Any board of county commissioners, in its discretion, may enter into agreements with the governing body of any municipality for participation with County Highway Funds in the cost of any improvements on streets which are in the limits of the municipality

and are part of the County Highway System. Such agreements may provide for the award and supervision of the contract by the municipality. The county's share of the cost is to be due and payable upon completion of the project.
Laws 1977, c. 256, § 36-112, eff. July 1, 1978.

§11-36-113. Construction, improvement, repair or maintenance of municipal streets.

A. The Department of Transportation may, or the board of county commissioners of any county or federally recognized tribal government shall, by agreement with the governing body of a municipality having a population less than five thousand (5,000) persons, construct, improve, repair or maintain any of the streets of the municipality.

B. The board of county commissioners may construct, improve, repair, or maintain any of the streets of a municipality having a population of less than five thousand (5,000) persons subject to agreement between the governing bodies of the county and the municipality without regard to whether the municipality has passed a sales tax with proceeds earmarked to construct, improve, repair or maintain any of the streets or roadways of such municipality.

C. The board of county commissioners may construct, improve, repair or maintain any of the streets of a municipality having a population of greater than five thousand (5,000) persons but less than fifteen thousand (15,000) persons if the municipality has passed a sales tax or fee with the proceeds earmarked to construct, improve, repair or maintain any of the streets or roadways of such municipality; provided, that the county has a population of less than one hundred fifty thousand (150,000) persons.

D. Notwithstanding any provision of this section, the board of county commissioners may construct, improve, repair, or maintain any of the streets of a municipality if the county has a population in excess of one hundred fifty thousand (150,000) persons according to the most recent Federal Decennial Census. The agreements entered into pursuant to the provisions of this subsection may be performed without regard to whether the municipality has passed a sales tax with proceeds earmarked to construct, improve, repair or maintain any of the streets or roadways of such municipality.
Added by Laws 1977, c. 256, § 36-113, eff. July 1, 1978. Amended by Laws 1982, c. 123, § 1, emerg. eff. April 9, 1982; Laws 1989, c. 162, § 1, operative July 1, 1989; Laws 2001, c. 22, § 1, eff. July 1, 2001; Laws 2003, c. 387, § 1, emerg. eff. June 4, 2003; Laws 2010, c. 266, § 1, emerg. eff. May 13, 2010; Laws 2012, c. 129, § 1, emerg. eff. April 24, 2012; Laws 2017, c. 23, § 1, eff. Nov. 1, 2017; Laws 2019, c. 375, § 1, eff. Nov. 1, 2019.

§11-36-114. Use of money from motor fuel excise tax and motor vehicle license and registration tax.

A municipal governing body which receives money from the state under the motor fuel tax or under the motor vehicle license and registration tax act may expend such money out of the street and alley fund or the street and alley account of the general fund of the municipality for construction, maintenance, repair, improvement, or lighting of streets and alleys.
Laws 1977, c. 256, § 36-114, eff. July 1, 1978; Laws 1991, c. 124, § 18, eff. July 1, 1991.

§11-36-115. Lighting of state and federal highways in unincorporated areas.

The municipal governing body may contract and pay for the lighting of state and federal highways in unincorporated areas adjacent to the municipality.
Laws 1977, c. 256, § 36-115, eff. July 1, 1978.

§11-36-116. Duties of railways as to paving and street improvements.

When a railway occupies any portion of a street with its tracks running in the general direction of the street, either on or adjacent thereto, the railway company shall improve the space between its tracks, and two (2) feet on either side thereof, in the same manner that the remainder of the street is to be improved, or with such other material as the municipality may require. Where any railway company occupies an alley with its track or tracks, the company shall be required to improve, gutter, drain, grade or pave, chat or gravel such alley in the manner that may be required by the ordinances of the municipality. Where any railway company crosses any street that is being or has been paved, the governing body may require the railway company to pave so much of the street as may be occupied by its track or tracks and two (2) feet on each side, and when more than one track crosses the street within a distance of one hundred (100) feet, measuring from inside rail to inside rail, the railway company shall grade, gutter, drain, curb, pave, chat or gravel, or improve between its tracks in the same manner as the municipality may be improving or has improved the other portion of the street. Provided however, any municipality may, at the time of the construction of the tracks, the granting of any street railway franchise, or at the time of the publication of the resolution, waive any or all of the requirements of this section if it deems it to be in the best interests of the municipality to do so.
Laws 1977, c. 256, § 36-116, eff. July 1, 1978.

§11-36-117. Sidewalks - Construction by railroad - Maintenance of improvements.

The municipality may require, in addition to the improvement of streets as required in Section 36-116 of this title, that a railway company shall construct sidewalks crossing the tracks or right-of-way

of its railways, with such material as the municipality may require by ordinance, upon either or both sides of the street; and that the railway company shall maintain such improvements, keeping the same in repair at its own expense, using for such purpose the same material as is used for the original paving, graveling or macadamizing, or sidewalks, or such other material as the municipality may order.
Laws 1977, c. 256, § 36-117, eff. July 1, 1978.

§11-36-118. Noncompliance by railway - Doing work at railway's expense - Lien on railway property.

A. If the owners of the railway shall fail or refuse to comply with the order of the municipality to make such improvements by paving, chatting, graveling, macadamizing, or building sidewalks as the municipality may direct, or to repair such paving, graveling, macadamizing or sidewalks, such work may be done by the municipality. The cost and expense of such work done by the municipality may be charged against the railway company and may be collected in the district court in the county in which the improvements have been made, by action of law, in the name of the municipality against the railway company. In any such action at law it shall be sufficient to declare generally for work or labor done, or material furnished on the particular street, avenue, alley or highway so improved.

B. In addition to the remedy provided in this section for collection of costs and expenses, the municipality, or any one authorized by it to do the work, shall be entitled to a lien upon the property of the railway company. Such lien shall exist for the full amount of the cost and expense against the property of the railway company adjacent or contiguous to the improvement or improvements so made. The lien may be enforced against the property of the railway company by action in the district court in the county in which the improvements have been made. In any action to enforce the lien, it shall be sufficient to declare generally that the lien exists for the amount of the cost and expense of the work and labor done or material furnished on the particular improvement.
Laws 1977, c. 256, § 36-118, eff. July 1, 1978.

§11-36-119. Waiver of penalties on delinquent assessments.

Whenever the municipal governing body deems it to be in the best interest of the municipality to waive or cancel any part or portion of the penalty or penalties belonging to the municipality from delinquent special assessments, the governing body by resolution may waive or cancel such part or portion of the penalty or penalties; except that any penalties which have been set aside by law for the purpose of paying bonds issued in the respective districts, together with the interest thereon which has accrued upon any delinquent special assessment or installment thereof, or for the purpose of

securing bonds or warrants for street improvement purposes or sewers, may not be waived or cancelled by the governing body.
Laws 1977, c. 256, § 36-119, eff. July 1, 1978.

§11-36-120. Compromise of assessments and penalties.

If all the bonds or warrants secured by assessments in any special assessment district in a municipality have been paid off and retired, and there are any special assessment, assessments or installments thereof remaining in the special assessment district which have not been paid off or discharged, then the governing body, in its discretion, may compromise and discharge the assessment, assessments or installments therof, including penalties, for such sum as the governing body determines to be in the best interest of the municipality.
Laws 1977, c. 256, § 36-120, eff. July 1, 1978.

§11-36-121. Resolution waiving penalties - Entries on record.

When any assessment, assessments, installments thereof, or penalties thereon shall be cancelled, compromised or waived by the governing body, a copy of its resolution, certified by the municipal clerk, shall be presented to the municipal or county official charged with the collection of such special assessment, assessments, installments or penalties. The official shall forthwith make the necessary entries in the records and books of his office as may be required to carry out the purposes of the resolution.
Amended by Laws 1984, c. 126, § 68, eff. Nov. 1, 1984.

§11-36-201. Definitions of terms used.

The following terms, when used in Sections 36-201 through 36-226, shall have the meanings respectively provided for them in this section, unless a different definition is given:

1. "Abutting property" shall mean all property within a block liable for assessments for both front and side street improvements. Where the property abutting upon an improvement is not divided into lots and blocks, the property liable to assessment shall be to the distance of three hundred (300) feet from the street, avenue, lane or alley upon which improvements are made, extending along both sides of the distance of the street or way so improved.

2. "Draining" shall mean the construction and connection of all necessary inlets, catch basins, manholes, underground drainage, sewer and utility pipes so as to provide for the collection, carriage and disposal of all surface water falling on or carried to any permanently improved street or way, to the most available existing outlet therefor.
Laws 1977, c. 256, § 36-201, eff. July 1, 1978.

§11-36-202. Petition for street improvements by owners.

A. The owners of more than one-half, in area, of the land liable to assessment for any improvement may petition the municipal governing body for the improvement of any street, alley, lane or avenue, or part thereof, not less than one block in length. The petition shall be filed with the municipal clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. The petition shall:

1. Describe the character of the improvement desired and the width of the improvement;

2. Indicate the materials preferred by the petitioners for the improvement; and

3. Show that the petitioners are the record owners of the land liable to assessment.

B. The governing body shall determine the sufficiency of the petition and its finding shall be conclusive and binding for all purposes and against all persons. The governing body may conduct hearings on the sufficiency of the petition and compel the attendance of witnesses under oath. No action or suit to question the findings of the governing body on the sufficiency of the petition may be commenced later than fifteen (15) days after such finding.

C. Upon making a satisfactory determination of the sufficiency of the petition, the governing body shall direct the engineer to prepare preliminary plans and estimates, as provided in Section 36-203 of this title, and proceed with the improvement in the manner provided by Sections 36-201 through 36-226 of this title.

Added by Laws 1977, c. 256, § 36-202, eff. July 1, 1978. Amended by Laws 2001, c. 54, § 1, eff. Nov. 1, 2001.

§11-36-203. Preliminary plans and costs of improvement - Governing body action.

Whenever the municipal governing body deems it necessary to grade, pave, construct, macadamize, chat or gravel, curb, gutter, drain or otherwise improve any street, alley, avenue, lane or any part thereof which shall have been heretofore paved, within the limits of the municipality, it shall direct, by resolution, the engineer to prepare preliminary plans and an estimate of cost. The resolution shall require the engineer to prepare and submit to the municipal clerk the following:

1. Preliminary plans, showing a typical section of the contemplated improvement, the type or types of material, and approximate thicknesses and widths;

2. Assessment plat, showing the area to be assessed; and

3. Preliminary estimate of the total cost of the improvement. The cost estimate may be in a lump sum or by unit prices, as the engineer may deem most desirable, for the improvement complete in place. The estimate shall also include the cost of advertising,

appraising, engineering, and such other expense as in the judgment of the engineer is necessary or essential to the completion of the work of improvement and the payment of the cost thereof. The engineering fees shall not exceed five percent (5%) of the contract price of the improvement. If the resolution provides for one or more types of construction, the engineer shall separately estimate the cost of each type of construction. If more than one street, avenue, alley, lane, public place, or part thereof is included in such resolution, separate estimates as to each shall be made.
Laws 1977, c. 256, § 36-203, eff. July 1, 1978.

§11-36-204. Examination and approval of plans - Resolution of necessity.

Upon the filing of the plans, assessment plat, and preliminary estimate of the cost of the improvements with the clerk, the governing body shall examine them and, if found satisfactory, shall adopt and approve them by resolution, and declare such work of improvement necessary to be done. The resolution shall:

1. Contain the time and place that the governing body will hold a hearing on the proposed improvement; and

2. Direct the municipal clerk to give notice as required in Section 36-205 of this title.

The resolution shall further provide that:

1. Any person, firm, corporation, administrator or guardian holding title to the lands liable to assessment may file, within fifteen (15) days after the last publication of notice, with the clerk a protest in writing against the improvement of the street, avenue, lane, alley or public place, or part thereof; and

2. The municipality may proceed to cause the improvements to be made, contract therefor and levy assessments for the payment thereof, if the record owners of more than one-half, in area, of the land liable to be assessed do not file their written protest as provided in this section.

Laws 1977, c. 256, § 36-204, eff. July 1, 1978.

§11-36-205. Notice of resolution of necessity - Publication and mailing.

A. The resolution of necessity shall be published in six (6) consecutive issues of a daily newspaper, or two (2) consecutive issues of a weekly newspaper, which newspaper shall be of general circulation in the municipality.

B. Not less than ten (10) days before the date of the first hearing on the proposed improvement, as set forth in the resolution of necessity, the clerk shall notify each listed owner of lots or tracts of land within the district as shown by the current year's tax rolls in the county treasurer's office in the following manner:

1. By mailing a postal card directly to the listed owner at his last-known address as shown by the tax roll, notifying the owner of the initiation of proceedings and advising him that his property will be liable to assessment and referring him to the newspaper and issues thereof in which the resolution is or will be published for further particulars; or

2. In lieu of mailing the postal card, by mailing to each of the listed owners a copy of the newspaper publication, which mailing shall not be less than ten (10) days before the first hearing.

If several tracts appear to be owned by the same person, all may be included in the same notification.

C. Proof of the notification given shall be made by certificate of the clerk which shall be filed in his office. However, the failure of any one or more of the listed owners to receive the notification shall not invalidate any of the proceedings hereunder.

Laws 1977, c. 256, § 36-205, eff. July 1, 1978.

§11-36-206. Protests - Determination of sufficiency - Effect of protests on the improvement.

A. Protests which have been filed in accordance with Section 36-204 of this title shall be heard and considered at the hearing on the proposed improvement. The hearing may be continued from time to time so that all protestants may be heard.

B. The findings of the governing body as to the sufficiency or insufficiency of any protest shall be conclusive and binding for all purposes and against all persons. At any hearing on such protests, the governing body may compel the attendance of witnesses under oath to determine the sufficiency thereof, and no action or suit to question the findings of the governing body on the sufficiency of the protests shall be commenced later than fifteen (15) days after the finding.

C. Any number of streets, avenues, lanes, alleys or other public places, or parts thereof, to be improved may be included in the resolution of necessity; but protests or objections shall be made and considered separately as to each street or way. For the purpose of protest, disconnected parts of the same street shall be treated as separate streets.

D. If any street, avenue, lane, alley, or other public place, or part thereof, has been protested by the owners of more than fifty percent (50%) of the land liable to assessment for the improvement, the municipal governing body shall not include the same in proceedings hereunder for a period of six (6) months except upon petition by the owners as provided in Section 36-202 of this title.

E. If sufficient protests are filed as to any one or more of such streets, avenues, lanes, alleys or public places, or parts thereof, the same shall be eliminated from the proceedings, but the other streets, avenues, lanes, alleys or other public places, or

parts thereof, as to which sufficient protests have not been filed shall not be affected thereby.

F. Notwithstanding any of the provisions of this section, when a section of any street or avenue included in the resolution of necessity does not exceed two (2) blocks, and does not exceed one thousand (1,000) feet in length and at the ends or limits of the section to be improved there is paving already constructed on and along the street or avenue to be improved, the governing body may cause such improvement to be constructed and to charge the cost thereof to the property liable for assessment as herein provided regardless of the number of protests that are filed against the proposed improvement of such section, street or avenue.
Laws 1977, c. 256, § 36-206, eff. July 1, 1978.

§11-36-207. Right of property owner to institute action in district court - Waiver of objections.

Any property owner, or other person interested in the proposed improvement, shall have the right to institute an action in the district court in the county in which situs of the municipality is located, at any time not later than fifteen (15) days after the action of the municipal governing body in adopting and approving the plans, profiles, specifications, estimates and assessment plat, to contest such action. Any suit instituted after the expiration of the fifteen (15) days shall not be maintained to question the plans, profiles, specifications, estimates or assessment plat, and the property owners liable for assessment shall be deemed to have waived all objections thereto.
Laws 1977, c. 256, § 36-207, eff. July 1, 1978.

§11-36-208. Resolution ordering improvement - Detailed plans, etc. - Contractor's bonds.

A. After the expiration of the time for filing protests against the proposed improvement, or if insufficient protests have been filed, the municipal governing body shall adopt a resolution declaring that no protests have been filed, or if protests have been filed, that the protests were insufficient, and expressing the determination of the governing body to proceed with the improvement. The resolution shall require the engineer to forthwith submit and file detailed plans, profiles, specifications and estimates of probable cost.

B. After the engineer has filed the detailed plans and estimates, the governing body shall examine them and, if found satisfactory, shall adopt and approve them by resolution, and order the improvement. The resolution ordering the improvement shall be adopted not later than one (1) year after the adoption of the resolution of necessity or after the filing of a petition by property owners for street improvements. The resolution shall:

1. State that the improvement will be constructed in accordance with the final detailed plans, specifications and profiles of the engineer;

2. Set forth the material to be used;

3. Set forth any reasonable terms and conditions that the governing body shall deem proper to impose with reference to the letting of the contract and the provisions thereof;

4. Require the contractor to execute to the municipality a good and sufficient bond, in the amount stated in the resolution, conditioned for the full and faithful execution of the work and the performance of the contract for the protection of the municipality and all property owners interested, against any loss or damage by reason of the negligence of the contractor, or improper execution of the work, or for the use of inferior material;

5. Require the contractor to execute a bond, in the amount stated in the resolution, for the maintenance of the improvements against any failure due to defective workmanship or materials for a period of not less than three (3) years from the time of its completion and acceptance. Such maintenance bond shall not be required where the street improvements consist in chatting or graveling;

6. Require the execution of a good and sufficient bond for payment of labor and material in accordance with applicable state law; and

7. Direct the municipal clerk, after the filing of the final plans, profiles, specifications and estimates, to advertise for sealed proposals for furnishing the materials and performing the work necessary in making the improvement.

Laws 1977, c. 256, § 36-208, eff. July 1, 1978.

§11-36-209. Advertisement and notice for proposals - Filing date for suits or actions.

A. The notice of the municipality's advertisement for proposals shall set forth:

1. The streets, avenues, or other public places to be improved;

2. The kind of improvements proposed;

3. That bonds will be required to be executed by the contractor as specified in the resolution ordering the improvement;

4. A reference to the plans and specifications;

5. The time and place for filing sealed proposals; and

6. The time and place that the governing body will consider the proposals.

The notice shall be published in ten (10) consecutive issues of a daily newspaper, or two (2) consecutive issues of a weekly newspaper, which is of general circulation in the municipality.

B. No action or suit to question the adoption of the resolution ordering the improvement, or its sufficiency, or the final detailed

estimates of the engineer, shall be commenced later than fifteen (15) days after the first publication of the notice for proposals.
Laws 1977, c. 256, § 36-209, eff. July 1, 1978.

§11-36-210. Award of contract - Aggregate cost.

At the time and place named in the notice for proposals to contractors, the municipal governing body shall examine all bids received. Without unnecessary delay, the governing body shall award the contract to the lowest and best bidder, who will perform the work and furnish the materials which have been selected, and perform all the conditions imposed by the governing body, as prescribed in the resolution ordering the improvement and notice for proposals. The aggregate amount of the contract shall not exceed the aggregate estimate of cost submitted by the engineer for the improvement, and in the event of any excess in cost over the engineer's estimate, the excess shall be void and no assessments for such excess may be levied. The governing body shall have the right to award a contract for all or a portion of the improvement or to reject any or all bids, and to readvertise for other bids when any bids are not, in its judgment, satisfactory. The letting of the contract shall not be complete until the contract is duly executed and the bonds approved.
Laws 1977, c. 256, § 36-210, eff. July 1, 1978.

§11-36-211. Final statement of cost - Designation of land in improvement district - Roster.

A. After the contract has been let and the grading and underground connections have been made, the engineer shall prepare and file with the municipal clerk a final, complete and accurate statement of the cost of the entire improvement, including engineering, appraising, advertising and other expenses incurred or to be incurred by the municipality incident to the improvement, together with any and all additions to the contract price of the improvements and the cost of all water, gas, sewer or other utility connections directly chargeable against the abutting property.

B. The engineer or municipal clerk shall prepare a roster of the owners of the lots and parcels of land which are to be included in the improvement district. The roster shall contain, according to the record title thereof:

1. The names of the last known owners of the property to be assessed, as shown by the current year's tax rolls in the county treasurer's office, or as shown by the certificate of a bonded abstractor; or in case the name of the owner is not known, a statement to that effect; and

2. A description of each tract or parcel of land to be assessed. Any error in the description of any lot or tract of land liable for assessment shall not invalidate the assessment or lien thereof.

C. The governing body shall adopt and approve the final statement of cost, and the roster designating the lots and parcels of land liable for assessment, if they are found to be correct.
Laws 1977, c. 256, § 36-211, eff. July 1, 1978.

§11-36-212. Appointment of appraisers - Duties - Preparation of assessment roll - Conclusiveness.

A. After the approval of the final statement of cost and the roster designating the property in the improvement district, the governing body by resolution shall appoint a board of appraisers to appraise and apportion the benefits to the several lots and tracts of land described in the roster. The board of appraisers shall consist of three (3) disinterested freeholders of the municipality who are not owners of property to be assessed for the improvement.

B. The appraisers shall take and subscribe an oath to make a true and impartial appraisement and apportionment. The appraisers may be paid for their services. The act of a majority of the appraisers shall have like force and effect as the act of all.

C. Within five (5) days after being notified of their appointment, the appraisers shall proceed to appraise and apportion the benefits to such lots and tracts of land as have been designated by the governing body. The cost of the improvement shall be apportioned among the lots and subdivisions of each quarter block, as provided in Section 36-213 of this title, according to the ownership thereof as it appears on the roster and according to the benefits to be assessed to each lot or parcel. The appraisers shall prepare and file an assessment roll containing the amount of the apportionment and assessment of each tract or parcel of land listed on the roster with the municipal clerk within ten (10) days after being notified of their appointment.

D. The determination by the board of appraisers, as confirmed by the governing body, of the property to be assessed and of the amount of benefits shall be conclusive upon the owners of the property assessed and shall not be subject to review by any court.
Laws 1977, c. 256, § 36-212, eff. July 1, 1978.

§11-36-213. Property chargeable with cost - Rules for apportioning costs.

A. For the purpose of determining the area of assessment, a block shall be deemed to be the area bounded on all sides by streets and avenues, or municipal limits, irrespective of the designation thereof. The lots, pieces or parcels of land fronting or abutting upon any improvement shall be chargeable with the cost thereof to the center of the block where the abutting way is on the exterior of the block.

B. Each quarter block shall be charged with its due proportion of the cost of improving both the front and side streets on which the

block abuts, together with the areas formed by street intersections and alley crossings, except such portions of street intersections and alley crossings as may be chargeable to railway companies. Each quarter block shall bear:

1. Its due proportion of the cost of paving, curbing, and guttering the same;

2. The cost of grading in proportion to the cost of grading the entire street being improved; and

3. The proportionate cost for construction of catch basins, manholes, inlet and drainage pipes, sewers and utility connections in proportion to the cost of the entire area of the improvement drained. The board of appraisers shall determine the amount of benefits to each quarter block on account of the grading thereof and the installation and construction of necessary drainage therefor.

C. When triangular or other irregularly shaped lots or tracts are to be assessed for an improvement, the cost of the improvement in excess of the benefits accruing to the lots shall be assessed against and borne by the municipality.

D. If the improvement is made in an alley or other public way in the center of the block, the assessment shall be made upon the property abutting the alley to the exterior of the block. In case of an alley not in the center of the block, or if more than one alley is improved in the block, then the assessment shall be made against the property which fronts and abuts the alley according to the area specially benefited by the improvement as the board of appraisers shall determine and as confirmed by the governing body.

E. If any of the property abutting upon an improvement shall not be a part of a block, or shall be a part of a block which is not square or rectangular in shape or shall be a part of a block which is not uniformly platted or subdivided, the governing body shall include such property in quarter block districts as nearly as practicable for the purpose of appraisement and assessment, and it shall determine the area of the property benefited by the improvement and the depth to which the property shall be assessed. In such cases the property shall be subject to assessment according to benefits as determined by the board of appraisers and as confirmed by the governing body and irrespective of whether or not the property immediately abuts upon the improvement. All such property within six hundred (600) feet of the improvement shall be deemed to be abutting thereon for the purposes of assessment.

F. If a fractional part of a lot, parcel, or tract of land is within an assessment area, the benefit shall be computed for the fractional part; but the entire lot, parcel or tract of land under the same ownership of which the fractional part is a part shall be subject to assessment for such benefit.

Laws 1977, c. 256, § 36-213, eff. July 1, 1978.

§11-36-214. Hearing of objections on assessments - Time of hearing - Notice.

A. When the assessment roll has been filed, the governing body shall set a time for holding a hearing on any complaints or objections that may be made concerning the apportionment as to any of the lots or tracts of land.

B. Notice of the hearing shall be published in five (5) consecutive issues of a daily newspaper, or two (2) consecutive issues of a weekly newspaper, which is of general circulation in the municipality. The date fixed for the hearing shall be not less than five (5) nor more than ten (10) days from the date of the last publication.

Not less than ten (10) days before the hearing, the municipal clerk shall also notify each listed owner of property chargeable with the cost of the improvement at his address, as shown by the current year's tax rolls in the county treasurer's office, or as shown by certificate of a bonded abstractor, in the following manner:

1. By mailing a postal card directly to the owner, notifying him of the facts contained in subsection C of this section, and referring him to the newspaper and issues thereof in which the notice is or will be published; or

2. In lieu of mailing the postal card, by mailing to each of the listed owners a copy of the newspaper publication, which mailing shall be not less than ten (10) days before the first hearing.

If several tracts appear to be owned by the same person, all may be included in the same notification.

C. The notice by publication and by mail shall state:

1. That the assessment roll is on file in the municipal clerk's office;

2. The date the assessment roll was filed; and

3. The time and place that the governing body will hear and consider any objections.

D. Proof of the notification given shall be made by certificate of the clerk which shall be filed in his office. However, the failure of any one or more of the listed owners to receive the notification shall not invalidate any of the proceedings hereunder.

Laws 1977, c. 256, § 36-214, eff. July 1, 1978.

§11-36-215. Hearing - Correction and confirmation of apportionment.

Any person, firm or corporation may, at or prior to the hearing on the apportionment, file objections in writing against the validity of the assessment roll or amount of the proposed assessment, specifically setting forth the nature thereof, and shall have full opportunity to be heard thereon. The governing body shall adjudicate and determine the objections and may make such order as may be just and proper. Any objections to the regularity of the proceedings with reference to the making of the improvement or the validity or the

amount of any assessment shall be deemed waived unless presented at the time and in the manner herein specified. At the hearing on the apportionment, or any adjournment thereof, the municipal governing body may review and correct the apportionment and assessment, and raise or lower the same as to any lots or tracts of land, as it shall deem just. The governing body by resolution shall confirm the apportionment and assessment as so revised and corrected by it.
Laws 1977, c. 256, § 36-215, eff. July 1, 1978.

§11-36-216. Assessing ordinance - Interest on installments - Lien.

Assessments in conformity to the appraisement and apportionment, as corrected and confirmed by the governing body, shall be payable in ten equal annual installments, and shall bear interest at the rate of not to exceed thirteen percent (13%) per annum until paid, payable in each year at such time as the several installments are made payable. The governing body, by ordinance and by referring to the assessment roll as confirmed, shall levy assessments in accordance with the assessment roll as confirmed against the several lots and tracts of land liable therefor. The ordinance shall provide that the owners of the property so assessed shall have the privilege of paying the amounts of their respective assessments without interest within thirty (30) days after the date of the publication of the assessing ordinance. The special assessments, and each installment thereof and the interest thereon, are hereby declared to be a lien against the lots and tracts of land so assessed from the date of the publication of the ordinance levying the same, coequal with the lien of other taxes and prior and superior to all other liens against such lots or tracts of land. The lien shall continue as to unpaid installments and interest until the assessments and interest thereon shall be fully paid, but unmatured installments shall not be deemed to be within the terms of any general convenant or warranty.
Laws 1977, c. 256, § 36-215, eff. July 1, 1978.

§11-36-217. Treatment of property owned by municipality, counties or schools.

Any property which is owned by the municipality, or county, or any board of education or school district shall be treated and considered the same as the property of other owners. The municipality, county, school district, or board of education within the district to be assessed may pay the total assessment against its property without interest within thirty (30) days from the date of the publication of the ordinance levying the assessment. In the event the assessment is not paid in full without interest within the thirty-day period, the municipality, county, school district or board of education shall annually provide, by the levy of taxes in a sufficient sum, for payment of the maturing installments of assessments and interest thereon.

Laws 1977, c. 256, § 36-217, eff. July 1, 1978.

§11-36-218. Assessment record.

As soon as the assessing ordinance is adopted, the municipal clerk shall prepare a book which shall be known as the Street Assessment Record in which he shall enter:

1. The names of each person owning the land to be assessed as ascertained from the records of the county, or in case the name of the owner is not known, a statement to that effect;

2. A description of the lot, tract or subdivision;

3. A blank space for entering the amount of the assessment; and

4. A suitable column for entering the payments which may be made from time to time on account of the assessment.

Laws 1977, c. 256, § 36-218, eff. July 1, 1978.

§11-36-219. Due date of first installment - Payment of assessment - Interest on delinquent installments.

A. The first installment of the assessment, together with interest upon the whole assessment from the date of the passage of the assessing ordinance to the first day of the next September, shall be due and payable in cash on or before the first day of September next succeeding the passage of the assessing ordinance. If the assessing ordinance is not passed prior to the first day of July in any year, the first installment of the assessment shall be due and payable in cash with interest from the date of the passage of the assessing ordinance to the first day of September of the following year.

B. The assessments shall be payable as the several installments become due, together with the interest thereon, to the municipal clerk, who shall give proper receipts for the payments, and credit the payments upon the Street Assessment Record. In case any installment or interest is not paid when due, the installment so matured and unpaid and the unpaid interest thereon shall draw interest at the rate of twelve percent (12%) per annum from maturity until paid, except as otherwise provided.

C. No statute of limitations shall commence to run against any installment until after the maturity of all installments.

Laws 1977, c. 256, § 36-219, eff. July 1, 1978.

§11-36-220. Notice of maturity of installments.

A. The municipal clerk shall, not less than thirty (30) days and not more than forty (40) days before the maturity of any installment of an assessment, publish in two (2) successive issues of a daily newspaper, or in one (1) issue of a weekly newspaper, which is of general circulation in the municipality, a notice which: 1. Advises the owners of the land affected by the assessment of the date when the installment and interest will be due;

2. Designates the street, streets, or other public places for the improvement of which the assessments have been levied; and

3. States that unless the installment and interest shall be promptly paid, the installment and interest shall bear interest at the rate of twelve percent (12%) per annum thereafter until paid, and that proceedings will be taken according to law to collect the installment and interest.

B. In addition to publication of the notice of maturity of installments, the municipality may also notify each owner of land affected by the assessment at his address as shown on the Assessment Record by mailing a postal card directly to the owner reciting the facts contained in the published notice, or by mailing to the owner a copy of the newspaper publication.

Laws 1977, c. 256, § 36-220, eff. July 1, 1978.

§11-36-221. Collection of payments - Bond of clerk - Special fund.

The municipal clerk shall be required to execute a good and sufficient bond, with sureties, and in an amount to be approved by the governing body, payable to the municipality, conditioned for the faithful performance of the duties conferred upon the clerk as collector of the assessments.

The municipal clerk shall keep an accurate account of all assessment collections made by him, and shall pay to the municipal treasurer daily the amounts of the assessments collected by him. The amounts so collected and paid to the municipal treasurer shall constitute a separate, special fund to be used and applied to the payment of the bonds and interest coupons which are issued against the assessments. After the payment of all bonds and interest thereon, any surplus remaining in the fund shall be used for the purpose of repairing and maintaining any improvement for which assessments have been levied, and for no other purpose whatsoever.

Laws 1977, c. 256, § 36-221, eff. July 1, 1978.

§11-36-222. Delinquent installments - Certification to county treasurer - Collection of taxes and penalties.

A. The municipal clerk, after the date of maturity of any installment and interest and no earlier than the first day of July and no later than the tenth day of July of the following year, shall certify the installment and interest then due to the county treasurer of the county in which the assessed property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property and such fee shall be deposited to the general fund of the county. The county treasurer shall place the installment and interest upon the November delinquent tax list of the same year, which is prepared by the county treasurer,

and collect the installment and interest as other delinquent taxes are collected. Provided, that no such certification shall be made to the county treasurer unless the town clerk shall have sent a notice of the nature and amount of the assessment by restricted delivery mail on or before June 1 of said year to the last-known address of the owner of the assessed property. The county treasurer shall collect the installments of assessment, together with interest and penalty, as certified to him by the municipal clerk, but any taxpayer shall have the right to pay his ad valorem taxes to the county treasurer regardless of the delinquency of such assessments. Within thirty (30) days after the receipt of a delinquent assessment, interest and penalty, as collected by the county treasurer, the same shall be paid by the county treasurer to the municipal treasurer for disbursement in accordance with the provisions of Section 36-221 of this title. The failure of the municipal clerk to publish notice of the maturing of any installment and interest shall in no way affect the validity of the proceedings to collect the same under the provisions of this section. All payments to the municipal treasurer on account of such assessments shall be certified by him to the municipal clerk for crediting on the Street Assessment Record.

B. All penalties for delinquent taxes, including penalties on special assessments and the interest of bonds for paving or other special assessment bonds, over and above the amount specified on the face thereof, shall be the property of the municipality and shall be collected by the county treasurer, it being the intent of this provision to have such penalties go to the street repair fund of the municipality.

Added by Laws 1977, c. 256, § 36-222, eff. July 1, 1978. Amended by Laws 1978, c. 196, § 1, eff. July 1, 1978; Laws 2000, c. 82, § 4, eff. Nov. 1, 2000.

§11-36-223. Setting aside assessments - Limitation on suits.

No suit may be sustained to set aside any assessment, nor to contest the area of assessment, nor to enjoin the municipal governing body from levying or collecting any assessment, or installment thereof, or interest or penalty thereon, or issuing the bonds, or providing for their payment, or contesting the validity thereof on any ground unless such suit shall be commenced not more than fifteen (15) days after the publication of the ordinance levying assessments. After the fifteen-day period has expired, or after the work has been completed and accepted by the municipality, a suit may be brought only for the failure of the governing body to adopt and publish the resolution declaring the necessity for the improvements, as provided in Sections 36-204 and 36-205 of this title, or for the failure to give notice of the hearing on the assessment roll, as provided in Section 36-214 of this title. If any special assessment shall be found to be invalid or insufficient, in whole or in part, for any

reason whatever, the governing body at any time, in the manner provided for levying an original assessment, may proceed to cause a new assessment to be made and levied which shall have like force and effect as an original assessment.
Laws 1977, c. 256, § 36-223, eff. July 1, 1978.

§11-36-224. Accepting improvements.

Upon the completion of the improvement, the municipal governing body shall determine whether or not the work has been completed in accordance with the plans, profiles, specifications and contract therefor. If the governing body finds the work to be in compliance, it shall accept the same. When the work is so accepted, the action shall be conclusively binding upon all persons interested and upon the court.
Laws 1977, c. 256, § 36-224, eff. July 1, 1978.

§11-36-225. Replacement bonds - Repairs.

Upon acceptance of the improvements and before the final payment of the contract price, the governing body shall require the contractor performing the work to make and execute a good and sufficient surety bond, or deposit sufficient securities or obligations of the United State of America or of the State of Oklahoma or some municipal subdivision thereof, to be approved by the governing body in the sum as determined by the governing body, but in no case to be less than ten percent (10%) of the contract price. The bond shall be conditioned for the immediate reimbursement to the municipality by the contractor for the maintenance of the improvements against any failure due to defective workmanship or materials for a period of three (3) years from the time of its completion and acceptance. Whenever any repairs of the improvements due to defective workmanship or materials are deemed necessary by the governing body, they shall order the same to be made under the supervision of the municipal engineer and the costs thereof certified to by the engineer. When such repairs have been approved by the governing body, the contractor and his bondsmen shall be notified of the amount expended and shall immediately become liable therefor.
Laws 1977, c. 256, § 36-225, eff. July 1, 1978. d

§11-36-226. Renewing improvements.

If the municipal governing body shall deem it necessary to pave, construct, macadamize, chat or gravel, curb, gutter, drain, or otherwise improve any street, avenue, alley, lane or any part thereof, which shall have been heretofore paved, constructed, macadamized, curbed, guttered, drained, or otherwise improved, the improvement is authorized to be done in accordance with the procedures on street improvements. In such case, the provisions of Sections 36-201 through 36-312 of this title for making improvements

and levying assessments therefor and the issuance of bonds shall apply.
Laws 1977, c. 256, § 36-226, eff. July 1, 1978.

§11-36-227. Street improvement districts - Written consent of landowners.

A. Before any property can be included as part of a street improvement district pursuant to Section 36-202 of Title 11 of the Oklahoma Statutes or any municipal governing body action pursuant to Section 36-203 of Title 11 of the Oklahoma Statutes, written consent shall be obtained by the owners of more than one-half (1/2), in area, of the land to be included in the street improvement district.

B. It shall be the responsibility of the petitioners to provide the municipal clerk with the requisite number of signatures if a street improvement district is created pursuant to Section 36-202 of Title 11 of the Oklahoma Statutes. It shall be the responsibility of the municipality to provide the municipal clerk with the requisite number of signatures if a street improvement district is created pursuant to Section 36-203 of Title 11 of the Oklahoma Statutes.

C. The municipal clerk shall certify that the requisite number of signatures consenting to a street improvement district is received before approving such district.
Added by Laws 2012, c. 174, § 1, eff. Nov. 1, 2012.

§11-36-301. Issuance of negotiable coupon bonds.

The municipal governing body may, after the expiration of thirty (30) days from the publication of the assessing ordinance, within which period the whole of any assessment may be paid without interest, provide by resolution for the issuance of bonds to pay all or any part of the cost of the street improvement. The bonds shall be in the aggregate amount of the assessments then remaining unpaid, bearing the date of thirty (30) days after the publication of the assessing ordinance, and be of such denominations as the governing body and the contractor shall determine. The bonds shall in no event become a liability of the municipality issuing the bonds. The bonds shall be payable on or before the first of October next succeeding the September 1 on which the last installment of assessments shall mature. The interest on the bonds shall be at the rate of not to exceed twelve percent (12%) per annum, payable on October 1 following the due date of the first installment of assessments, and semiannually thereafter, until maturity, and fifteen percent (15%) per annum after maturity. The bonds shall be designated as Street Improvement Bonds and shall:

1. Recite the street or streets or part of streets, or other public places, for the improvement of which they have been issued;

2. State that they are payable, in cash, from the assessments which have been levied upon the lots and tracts of land benefited by

the improvement and from the accumulation of the interest and penalty on the assessment;

3. Designate the place, either within or without Oklahoma, where the bonds and interest shall be payable;

4. Be signed by the mayor and attested by the municipal clerk; and

5. Contain an impression of the corporate seal of the municipality thereon.

Facsimile of the signatures of the mayor and municipal clerk may be used as provided in the Registered Public Obligations Act of Oklahoma. The bonds shall be issued in series, and the bonds of each series shall be numbered consecutively beginning with number One, and the bonds of each series shall be payable, in cash, in their numerical order.

Amended by Laws 1982, c. 9, § 2, emerg. eff. March 15, 1982; Laws 1983, c. 170, § 14, eff. July 1, 1983.

§11-36-302. Registration of bonds.

The bonds shall be registered by the clerk of the municipality in a book to be provided for that purpose. The book shall show a description of the bond, the name and address of the owner or holder, and the date of registration. Upon the books of the treasurer shall be noted the name of the holder of the bond and his address. The bond shall be endorsed by the clerk over his signature, or a facsimile of his signature, the legend "registered in my office". Each bond shall bear a certificate of registration. Any subsequent holder may cause the same to be registered in the name of the holder upon submission of proper proof of ownership. After registration of any bond, no transfer or assignment thereof shall be valid until such transfer or assignment has been registered with the municipal clerk. Nothing herein shall prevent the appointment and compensation by the municipality of a registrar, transfer, authenticating, paying or other agents to effect the transfer of ownership or change of payee of any bonds issued by the municipality and to maintain books and records relating thereto.

Amended by Laws 1983, c. 170, § 15, eff. July 1, 1983. d

§11-36-303. Bond payment and cancellation.

The municipality shall have the right to call in and pay the bonds or any number thereof in the following manner: Whenever there shall be sufficient funds in the hands of the municipal treasurer after the payment of all interest due and to become due within the next six (6) months, the treasurer, on or before March 10 and September 10 of any year, shall give notice by certified mail addressed to the last registered holder of the bonds called at the address appearing on his registry, that there has accumulated funds sufficient to pay the designated bonds and interest thereon to April

1 next or October 1 next, as the case may be, and directing the presentation of the bonds for payment and cancellation. The bonds which are called will cease to bear interest after April 1 or October 1, as provided in the notice. Upon the payment and cancellation of the bonds, proper entry thereof shall be made upon the books of the clerk and treasurer. Upon the accumulation of sufficient funds as herein provided to pay one or more bonds, the municipal treasurer shall call and pay such bonds, and in the event of failure to do so, he shall be liable for all such damages as may result therefrom. The provisions of this section may be enforced by appropriate proceedings in mandamus against the treasurer.
Laws 1977, c. 256, § 36-303, eff. July 1, 1978.

§11-36-304. Delivery of bonds to contractor.

The cash prepayments and the bonds in the amount that may be necessary for the purpose shall be turned over and delivered to the contractor or assigns at par and accrued interest in payment of the amount due, including advertising, engineering and appraising costs, in accordance with the terms of the contract. The bonds shall be executed and held by the municipality and delivered in parcels from time to time upon the completion and approval of the work, or any part thereof not less than one (1) block, in an amount equal to the improvement so completed and accepted.
Laws 1977, c. 256, § 36-304, eff. July 1, 1978. d

§11-36-305. Consent to use bonds as payment for assessments.

The registered holder of any outstanding bonds issued to pay for a street improvement may file his consent in writing with the municipal clerk to use the bonds to pay for an assessment, or installment thereof, which has been levied by the governing body. The written consent shall be binding upon any transferee or assignee of the bonds, and upon all of the registered owners signing the consent, as to all payments and discharges made for such assessment until written notice be filed with the clerk by the registered holder, transferee or assignee, of the bond terminating his consent thereto. After the written consent is filed and until written notice of termination is given, the owner of any property in the street improvement district may present, with the written consent of the registered holder or holders, to the clerk the bonds bearing the lowest serial numbers of the bonds outstanding in the series as payment for the assessment, or any installment thereof, upon the owner's property, whether delinquent or unmatured, with all interest and penalty thereon. The clerk shall endorse upon each bond the amount of the installment, and interest and penalty thereon, for which the bond is tendered as payment. The clerk shall then issue a receipt to the owner of the property for the amount of the installment, together with interest and penalty, for which credit has

been endorsed upon the bonds. Whenever the credits upon any bond so endorsed equals the principal amount of the bond, together with all matured interest, the bond, together with all matured interest, whether due or to become due, shall be canceled by the clerk.
Amended by Laws 1983, c. 170, § 16, eff. July 1, 1983.

§11-36-306. Payment of delinquent assessments by endorsement on bonds.

If an assessment or installment thereof which is paid by endorsement upon a bond is delinquent and in the hands of the county treasurer for collection, then the receipt issued by the clerk may be presented by the registered holder of the bond to the county treasurer. The county treasurer shall thereupon endorse upon his records the satisfaction and discharge of the delinquent installments upon the property described in the receipt. Thereafter the property shall be free and discharged from all further lien for such installments of assessment.
Laws 1977, c. 256, § 36-306, eff. July 1, 1978.

§11-36-307. Settlement between property owner and bondholder - Ratification.

All settlements or compromises made by any property owner with the registered holder of bonds in accordance with Section 36-305 of this title are hereby ratified and confirmed and shall be binding upon all persons, including subsequent holders and assignees of the bonds.
Laws 1977, c. 256, § 36-307, eff. July 1, 1978. der

§11-36-308. Right of action of bondholder.

Any holder of a street improvement bond shall have the right to institute, in the name of the municipality issuing the bond, an action in the district court in the county in which the property is located to foreclose the lien of the assessment whenever the assessment, or any installment thereof, is delinquent for a period of at least twelve (12) months. The petition for foreclosure shall generally:

1. State the ownership of the bond;
2. Describe the property assessed;
3. Describe the nature of the improvement;
4. State the amount of the unpaid delinquent assessment or installment and penalty thereon at the rate of twelve percent (12%) per annum; and
5. Pray for the foreclosure of the lien.

Summons shall be issued on the petition as in other civil actions and the cause shall be tried by the district court. Judgment may be entered on the petition for the amount of the unpaid assessment, or installment, together with interest thereon at the rate of twelve

percent (12%) per annum from the date the assessment or installment was due and payable up to the date of the filing of the petition, and for the sum of six percent (6%) interest on the judgment computed from the time of filing the petition until the judgment is paid. If the judgment, together with interest and costs, is not paid within six (6) months after the date of the rendition thereof, an order of sale shall be issued by the clerk of the court, directed to the sheriff of the county, to sell the real estate in the manner and form as for sale of real estate under execution. The judgment shall carry the costs of the action, together with the costs of the sale. Upon the payment of the judgment, the amount thereof exclusive of costs shall be paid to the municipal treasurer for deposit in the separate, special fund. The judgment shall provide for the sale of the real estate subject to existing general or ad valorem taxes and special assessments. All owners or encumbrancers shall be made parties defendant in the suit. Upon the institution of an action to collect delinquent and unpaid assessments against property liable therefor, no other action shall be instituted and maintained to collect such delinquent assessment against the property for that year.

11-36-309. Refunding street improvement bonds - Authority.

Any municipality which has issued street improvement bonds by virtue of the authority of any law or charter provision is authorized to refund the bonds. In refunding such bonds, the governing body may provide for:

1. The levy and collection of assessments to pay the bonds;

2. The retirement of the street improvement bonds originally issued;

3. The cancellation of any or all prior assessments, and penalties and interest, together with interest and penalties that have accrued thereon, by and with the written consent and under written contract with the holders of any series of the street improvement bonds;

4. A written "Agreement to Accept Street Improvement Refunding Bonds" in exchange for the bonds originally issued; and

5. The procedure for such refunding in accordance with applicable law.

Laws 1977, c. 256, § 36-308, eff. July 1, 1978.

§11-36-309. Refunding street improvement bonds - Authority.

Any municipality which has issued street improvement bonds by virtue of the authority of any law or charter provision is authorized to refund the bonds. In refunding such bonds, the governing body may provide for:

1. The levy and collection of assessments to pay the bonds;

2. The retirement of the street improvement bonds originally issued;

3. The cancellation of any or all prior assessments, and penalties and interest, together with interest and penalties that have accrued thereon, by and with the written consent and under written contract with the holders of any series of the street improvement bonds;

4. A written "Agreement to Accept Street Improvement Refunding Bonds" in exchange for the bonds originally issued; and

5. The procedure for such refunding in accordance with applicable law.

Added by Laws 1977, c. 256, § 36-309, eff. July 1, 1978.

§11-36-310. Limitation of bondholder actions on street improvement bonds.

The right of any holder to enforce the lien of any street improvement bond or street improvement refunding bond by foreclosure, mandamus, refunding, or otherwise, shall be barred upon the expiration of three (3) years after the maturity date named on the face of such bond, unless the bondholder, prior to the expiration of the three-year period, shall have:

1. Commenced suit to foreclose his lien by filing an action for that purpose and procuring service of summons therein; or

2. Evidenced his willingness to accept street improvement refunding bonds, issued under the provisions of Sections 36-309 through 36-312 of this title, in exchange for the bond.

The running of the three-year period of limitation shall be an absolute bar to any action or proceeding brought thereafter, whether the same is plead as a defense or not, and the property against which the bonds represented a lien shall thereafter be, by operation of law, absolved of any lien or liability on account of the bonds.

Laws 1977, c. 256, § 36-310, eff. July 1, 1978.

§11-36-311. Notice to bondholders - Holder may accept street improvement refunding bonds.

At least sixty (60) days prior to the expiration of the three-year limitation on actions by bondholders, the municipal clerk shall notify the holders of all outstanding street improvement bonds that the same are about to be barred by the statute of limitations by:

1. Mailing a notice to the holder of each bond at his last known address, as shown by the records of the clerk; and

2. Publishing the notice in some newspaper of general circulation in the municipality in which the street improvement district is located. If there is no newspaper published in the municipality, then the publication shall be made in some newspaper published in the county, and by publication of the notice in at least one nationally recognized financial journal.

The notice to bondholders shall be substantially in the following form:

NOTICE TO ALL HOLDERS OF STREET IMPROVEMENT BONDS OF DISTRICT NO._____ (or, if appropriate, insert the ordinance or serial no.) OF THE _____ (City or Town) OF _____, OKLAHOMA:

You are hereby notified that on the _____ day of _____, 19__, the above bonds and rights thereunder will be barred by the Statute of Limitation, as provided in Section 36-310 of Title 11 of the Oklahoma Statutes. You will govern yourselves accordingly.

_____

CLERK OF THE _____ (City or Town) of _____, OKLAHOMA.

Failure of the clerk to give notice provided herein shall not impair any of the provisions of Sections 36-309 through 36-312 of this title.

Laws 1977, c. 256, § 36-311, eff. July 1, 1978. d

§11-36-312. Limitation of actions to enforce lien of bonds by holder not receiving refunding bonds.

The right of any bondholder, who has filed with the municipal clerk an "Agreement to Accept Street Improvement Refunding Bonds" but who has not been issued street improvement refunding bonds, to enforce the lien of any street improvement bond or street improvement refunding bond by foreclosure, mandamus, tax sale and resale, refunding, or otherwise, shall be barred upon the expiration of three (3) years after the date of the filing of his "Agreement to Accept Street Improvement Refunding Bonds". The running of the three-year period of limitation shall be an absolute bar to any action or proceeding brought thereafter, whether the same be plead as a defense or not, and the property against which the bonds represented a lien shall thereafter be absolved of any lien or liability on account of the bonds or "Agreement to Accept Street Improvement Refunding Bonds". A certificate issued by the municipal clerk certifying that no holder of any such bonds has either

1. filed his "Agreement to Accept Street Improvement Refunding Bonds";

2. commenced foreclosure, mandamus, refunding or otherwise, within the three-year period as prescribed herein; or

3. commenced foreclosure within the three-year period prescribed in Section 36-310 of this title,

shall operate to remove any cloud upon the title of any property created by the street improvement bond, the street improvement refunding bond, or "Agreement to Accept Street Improvement Refunding Bonds", and the liens represented thereby. Nothing contained in this section shall be construed to give a remedy where no remedy of any type or nature previously existed in any bondholder or owner, or to revive a lien or right where no remedy previously existed.

Laws 1977, c. 256, § 36-312, eff. July 1, 1978.

§11-36-401. Widening streets - Acquisition of real estate - Payment of cost.

A municipality may acquire by condemnation, in the manner provided by law, or by purchase or gift, the necessary real estate or interest therein for the purpose of laying out, opening, extending, widening or straightening any street, boulevard, alley, park or public square within the municipality. The governing body may provide for the payment of the costs of the real estate in accordance with Sections 36-401 through 36-414 of this title and may purchase the real estate from the capital outlay account for streets and alleys. Whenever the governing body deems it to be in the best interest of the municipality to pay the cost of the real estate from moneys on hand, it may authorize by resolution the payment for the real estate from the appropriate fund or funds of the municipality, after transferring the funds to the street and alley account.
Laws 1977, c. 256, § 36-401, eff. July 1, 1978.

§11-36-402. Preliminary plans - Examination and approval - Proposed assessment roll.

When the governing body deems it necessary to acquire real estate for the purpose of laying out, opening, extending, widening or straightening any street, boulevard, alley, park or public square within the municipality, it shall direct, by resolution, the engineer to prepare the necessary plans, specifications, profiles and an estimate of the probable cost of the improvement and to submit them for approval to the governing body. Upon the approval of the plans and estimates, the engineer shall at once prepare a proposed assessment roll which shall contain:

1. The names of the last-known owners of real estate abutting the improvement, not less than one (1) block distance from the improvement, and including such additional area as shall be deemed to be benefited by reason of the improvement. The record owners shall be listed as shown by the current year's tax rolls in the county treasurer's office, or as shown by certificate of a bonded abstractor;

2. A description of each tract or parcel of land to be assessed; and

3. The amount of the proposed assessment of each tract or parcel of land, based on apportionment of the cost of improvement among the tracts and parcels benefited by the improvement in proportion to the entire area benefited by the improvement.
Laws 1977, c. 256, § 36-402, eff. July 1, 1978.

§11-36-403. Resolution of necessity - Assessment of cost - Notice of hearing.

The proposed assessment roll shall be submitted by the engineer to the governing body, which shall examine the same and correct any

errors which may appear therein. The governing body shall adopt a resolution approving the assessment roll and declaring the work of improvement necessary to be done. The resolution shall: 1. State that the assessment roll, as approved, is on file in the municipal clerk's office;

2. Set forth the time and place that the governing body will hold a hearing on any complaints or objections that may be made concerning the apportionment and assessment of costs for the improvement. The date of the hearing shall be not less than five (5) nor more than fifteen (15) days after the date of the last publication; and

3. Direct that notice be given by publication of the resolution for not less than five (5) nor more than ten (10) days in a daily newspaper of general circulation in the municipality, or by publication for four (4) consecutive weeks in a weekly newspaper of general circulation in the municipality.

A copy of the notice of the nature and amount of the assessment shall also be mailed by restricted delivery mail to the owners of land liable to assessment for the cost of the improvement, directed to the address of such owner as shown on the assessment roll, which mailing shall be not less than ten (10) days before the first hearing. The notice by restricted delivery mail shall be considered cumulative of the notice by publication.

Added by Laws 1977, c. 256, § 36-403, eff. July 1, 1978. Amended by Laws 1978, c. 196, § 2, eff. July 1, 1978.

§11-36-404. Hearing - Correction and confirmation of apportionment - Right of action.

At the hearing on the assessment and apportionment, the governing body shall give full opportunity to hear any and all protests that may be urged against the levy of assessments for the cost of the improvement and shall have the right to hear witnesses until a full and complete hearing shall be had thereon. The protests shall be in writing, specifically setting forth the nature of the objection raised. After the conclusion of the hearing, the governing body shall adjudicate the objections and may make such order on the levy of assessments as may be just and proper. Any objection shall be deemed waived unless presented at the time and in the manner prescribed herein. Any owner of land liable to assessment shall have the right to institute an action to contest the validity of the amount of the assessment at any time within ten (10) days after the final adjudication thereof by the governing body, but no suit may be maintained to contest the validity or the amount of the assessment, or any other matter pertaining to the proposed improvement after the expiration of the ten-day period.

Laws 1977, c. 256, § 36-404, eff. July 1, 1978.

§11-36-405. Assessing ordinance - Interest on installments - Lien.

The governing body, by ordinance, shall levy assessments against the several lots and tracts of land benefited by reason of the improvement in accordance with its determination and final adjudication and fix a lien upon the property for the amount of the assessments. The ordinance shall provide that:

1. The assessments are payable in ten (10) equal annual installments, with interest thereon at the rate of eight percent (8%) per annum, payable annually;

2. The installments shall be due and payable on or before the first day of September of each year following the date of the passage of the assessing ordinance;

3. The owner of any lot, piece or parcel of land shall have the right to pay the entire assessment without interest within thirty (30) days after the date of the publication of the assessing ordinance;

4. Upon failure to pay an installment the municipal clerk shall certify the delinquency to the county treasurer to be placed upon the delinquent tax list of the county for the current year; and 5. If installments are not paid when due, they shall bear interest at the rate of twelve percent (12%) per annum, and no earlier than July 1 and no later than July 10 of the following year, shall be certified to the county treasurer to be placed upon the delinquent list, and the property shall be sold to pay such delinquent assessment in the manner provided for the sale of property for delinquent taxes. Provided, that no such certification shall be made to the county treasurer unless the city or town clerk shall have sent a notice of the nature and amount of the assessment by restricted delivery mail on or before June 1 of said year to the last-known address of the owner of the assessed property.

Added by Laws 1977, c. 256, § 36-405, eff. July 1, 1978. Amended by Laws 1978, c. 196, § 3, eff. July 1, 1978.

§11-36-406. Issuance of negotiable coupon bonds.

Upon the expiration of thirty (30) days after the passage of the assessing ordinance, the governing body may provide by resolution for the issuance of negotiable interest coupon bonds. The bonds shall be designated Local Improvement Bonds and shall be of such denominations and in such form as the governing body shall determine. The bonds shall bear the date of thirty (30) days after the publication of the assessing ordinance and shall bear interest at the rate of seven percent (7%) per annum until paid, and ten percent (10%) per annum, from maturity. The bonds may be registered in the name of the holder thereof and shall be payable at the office of the municipal treasurer or at the fiscal agency of the State of Oklahoma. The interest thereon shall be payable annually on the first day of September of each year. Upon the issuance of the bonds, they shall be delivered

to the municipal treasurer and shall be sold at not less than par. If the governing body deems it most advantageous to the municipality, the bonds may be used for the payment of the cost of acquiring the real estate necessary for the improvement. The bonds shall be paid from the accumulation of assessments, interest and penalty, levied against the several lots and tracts of land described in the assessing ordinance. The accumulations shall be retained in a separate, special fund used for the purpose of paying the bonds and interest thereon, and for no other purpose whatsoever. Any surplus remaining in the fund, after the payment of all bonds and the interest thereon, shall become the property of the municipality. In no event shall the municipality be liable for the payment of the bonds.
Amended by Laws 1983, c. 170, § 17, eff. July 1, 1983.

§11-36-407. Additional improvements on widened streets - Surface waters, etc. - Assessment.

The governing body may grade, pave, macadamize, chat, gravel, and install necessary manholes, catch basins, inlets, drainage pipe and sewers with necessary connections therefor, for the purpose of adequately disposing of the surface water falling upon any street, alley, boulevard, park or public square which is being improved pursuant to this subarticle. In proceeding with such work of improvement, the governing body may contract therefor, levy and collect special assessments, and provide for the issuance and payment of bonds, or tax bills, to pay for the improvements, in accordance with the provisions of existing law or charter. The area benefited by reason of the construction of the improvements shall be those lots, pieces and parcels of land abutting and adjacent to the improvement, as described in the written statement of the engineer as benefiting by reason of acquiring, opening, extending, widening or straightening the street, alley, boulevard, avenue, park or public square, and as confirmed by the governing body. Protests and assessments shall be made in the manner provided in Sections 36-403 through 36-406 of this title.
Laws 1977, c. 256, § 36-407, eff. July 1, 1978.

§11-36-408. Excess of cost over benefits.

Whenever the governing body determines that any lot or tract of land abutting upon the improvement is to be assessed and the cost of the improvement exceeds the benefits accruing to the lot or tract of land, the municipality shall bear the excess and shall pay for the excess out of the general revenues of the municipality in such manner as the governing body determines.
Laws 1977, c. 256, § 36-408, eff. July 1, 1978.

§11-36-409. Limitation on certain collections and bond sales for widening streets.

A. Any municipality that proposes to widen an existing two-lane street to a width which would permit four or more lanes of traffic shall be liable for the entire costs of the improvement, except that portion of the costs that may be paid by the board of county commissioners, the State of Oklahoma, the United States of America, or the amount set forth in a petition for street improvements as assessable against property owners.

B. No assessments shall be collected nor shall any improvement bonds which are to be paid from assessment collections be sold or assigned after April 28, 1971, which relate to the financing or a widening project for which assessments are prohibited under subsection A of this section and unless the improvement has been completed as of April 28, 1971.

Laws 1977, c. 256, § 36-409, eff. July 1, 1978.

§11-36-410. Laying out or widening across public property - Declaration of necessity - Exceptions.

Whenever the municipal governing body deems it necessary for public use and convenience to extend, open, widen, or lay out any street or avenue over, upon or across any public property which is wholly within the municipal limits and which is owned by the state, county, school district, or board of education, the governing body by ordinance shall declare the public necessity for the use of such street. Public property which is actually covered by a public building may be taken for the purposes named in this section upon approval by the appropriate governing body or officer of the governmental agency which has title to the building.

Laws 1977, c. 256, § 36-410, eff. July 1, 1978.

§11-36-411. Description of property - Delivery of copy of ordinance - Making improvements.

The ordinance of necessity shall particularly describe the tract of land necessary to be taken for public use and a copy of the ordinance, duly certified by the municipal clerk, shall be delivered to:

1. The Governor, if the property to be taken is state property;

2. The county clerk, if the property to be taken is county property; and

3. To the clerk of the school district or board of education, if the property to be taken is school property.

Upon passage and proper delivery of the ordinance of necessity, the municipality shall have the power to immediately enter upon the land and improve it by opening, widening, extending or laying out, over, upon and across the land a street or avenue, and the land so taken shall become a part of the street system of the municipality. When

the ordinance of necessity has been passed, it shall be considered conclusive evidence in any court of the public necessity for opening, widening, or laying out such street.
Laws 1977, c. 256, § 36-411, eff. July 1, 1978.

§11-36-412. Compensation to owner - How ascertained - Exempting land from assessment.

A. No compensation shall be paid to the state, county, school district or board of education for taking land for street purposes as provided in Sections 36-410 and 36-411 of this title, unless the property taken was acquired by purchase or condemnation or is held in a private and not a governmental capacity. If the land taken for street purposes was acquired by purchase or condemnation or is held in a private or proprietary capacity and not in a governmental capacity, then compensation shall be paid in accordance with the method for ascertaining damages in eminent domain proceedings for the taking of private property.

B. If the land taken for street purposes was not acquired by purchase or eminent domain proceedings and is not owned and held in a private or proprietary capacity, no expense, special assessment, or other charge shall be levied or assessed against the land so taken or any part thereof by reason of the opening, widening, extending, laying out, curbing, guttering, or paving of the street or avenue. The exemption from all such paving, special assessments and other expenses shall be in lieu of any compensation for the taking of the land for public streets.
Laws 1977, c. 256, § 36-412, eff. July 1, 1978.

§11-36-413. Dedication of public property for street purposes.

Any board of county commissioners, board of education or school district shall have full power and authority at all times to offer to the public for public use and for street purposes any lands owned or held by it in any municipality, whether such lands be held in a governmental or private or proprietary capacity. To effect a dedication to the public, it shall only be necessary for the municipal governing body to adopt a resolution declaring the land described dedicated to public use as a public street or avenue.
Laws 1977, c. 256, § 36-413, eff. July 1, 1978.

§11-36-414. Authority and control over property taken.

When public land has been appropriated for street purposes, as provided in Sections 36-410 through 36-413 of this title, such land shall not again be subject to the control or authority of the state, county, school district or board of education until and unless the land so taken shall be no longer used by the public for street purposes.
Laws 1977, c. 256, § 36-414, eff. July 1, 1978.

§11-36-501. Short title - Oklahoma Small Wireless Facilities Deployment Act.

This act shall be known and may be cited as the "Oklahoma Small Wireless Facilities Deployment Act".

Added by Laws 2018, c. 140, § 1, eff. Nov. 1, 2018.

§11-36-502. Definitions.

As used in the Oklahoma Small Wireless Facilities Deployment Act:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

2. "Applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons to the extent not inconsistent with this act;

3. "Applicant" means any person who submits an application and is a wireless provider;

4. "Application" means a request submitted by an applicant to an authority:

a. for a permit to collocate small wireless facilities, or

b. to approve the installation, modification or replacement of a utility pole;

5. "Authority" means a municipality or a municipal electric utility;

6. "Authority pole" means a utility pole owned, managed or operated by or on behalf of an authority;

7. "Collocate" means to install, mount, maintain, modify, operate or replace small wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning;

8. "Communications service provider" means a cable operator as defined in 47 U.S.C., Section 522(5), a provider of information service as defined in 47 U.S.C., Section 153(24), a telecommunications carrier as defined in 47 U.S.C., Chapter 153(51), or a wireless provider;

9. "Decorative pole" means an authority pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, light fixtures or specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes;

10. "Electric distribution pole" means an authority pole used to support an electric distribution system;

11. "FCC" means the Federal Communications Commission of the United States;

12. "Fee" means a one-time, nonrecurring charge;

13. "Historic district" means a group of buildings, properties or sites that are zoned by the authority as a historic district on or before March 31, 2018; included in the State Register of Historic Places in accordance with Section 355 of Title 53 of the Oklahoma Statutes; or are either listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C;

14. "Law" means federal, state or local law, statute, common law, code, rule, regulation, order or ordinance;

15. "Micro wireless facility" means a small wireless facility that meets the following qualifications:

a. is not larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and

b. any exterior antenna is no longer than eleven (11) inches;

16. "Permit" means a written authorization required by an authority to perform an action or initiate, continue or complete a project;

17. "Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including an authority;

18. "Rate" means a recurring charge;

19. "Right-of-way" means the area within the jurisdiction of the authority that is on, below or above a public roadway, highway, street, sidewalk, alley or similar property or a public easement that authorizes the deployment sought by the wireless provider, but does not include a federal interstate highway;

20. "Small wireless facility" means a wireless facility that meets both of the following qualifications:

a. each antenna of the wireless provider could fit within an enclosure of no more than six (6) cubic feet in volume, and

b. all other wireless equipment associated with the wireless facility, whether ground- or pole-mounted, is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding

equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services;

21. "Technically feasible" means that by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility, or its design or site location can be implemented without a reduction in the functionality of the small wireless facility;

22. "Utility pole" means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage or a similar function, or for the collocation of small wireless facilities; provided, however, such term shall not include wireless support structures or electric transmission structures. Utility poles controlled by an investor-owned electric utility or electric cooperative are subject to Section 7 of this act;

23. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (a) equipment associated with wireless communications; and (b) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment regardless of technological configuration. The term includes small wireless facilities. The term does not include:

a. the structure or improvements on, under or within which the equipment is collocated, or

b. coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna;

24. "Wireless infrastructure provider" means any person authorized to provide telecommunications service in the state that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures but that is not a wireless services provider;

25. "Wireless provider" means a wireless infrastructure provider or a wireless services provider;

26. "Wireless services" means any services, whether at a fixed location or mobile, provided to the public using wireless facilities;

27. "Wireless services provider" means a person who provides wireless services; and

28. "Wireless support structure" means a structure such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting wireless facilities other than a structure designed solely for the collocation of small wireless facilities. Such term shall not include a utility pole.

Added by Laws 2018, c. 140, § 2, eff. Nov. 1, 2018.

§11-36-503. Rights and limitations on authorities and wireless providers.

A. The provisions of this section shall only apply to the collocation of small wireless facilities by a wireless provider in the right-of-way and the deployment of utility poles to support small wireless facilities by a wireless provider in the right-of-way.

B. An authority may not enter into an exclusive arrangement with any person for use of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance or replacement of utility poles.

C. An authority may only charge a wireless provider a rate or fee for the use of the right-of-way with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation or replacement of a utility pole in the right-of-way, if the authority charges nonpublic entities for use of the right-of-way. Notwithstanding the foregoing, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate to a wireless provider for the use of the right-of-way. The rate for use of the right-of-way is provided in Section 6 of this act.

D. Subject to the provisions of this section and approval of an application pursuant to Section 4 of this act, a wireless provider shall have the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, operate and replace utility poles along, across, upon and under the right-of-way. Such structures and facilities shall be so installed and maintained as not to obstruct or hinder the usual travel or public safety on such right-of-way or obstruct the legal use of such right-of-way by other occupants of the right-of-way, including public utilities, or violate right-of-way regulations of general application that are consistent with this act.

E. Each new or modified utility pole installed in the right-of-way shall not exceed the greater of:

1. Ten (10) feet in height above the tallest existing utility pole in place as of the effective date of this act located within five hundred (500) feet of the new pole in the same right-of-way; or

2. Fifty (50) feet above ground level.

New small wireless facilities in the right-of-way may not extend more than ten (10) feet above an existing utility pole in place as of the effective date of this act or, for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under this section.

F. A wireless provider shall have the right to collocate a small wireless facility and install, maintain, modify, operate and replace a utility pole that exceeds the height limits in subsection E of this section along, across, upon and under the right-of-way, subject to applicable zoning or other land-use regulations.

G. An authority may adopt written guidelines establishing reasonable and objective stealth or concealment criteria for small wireless facilities in designated areas, reasonable and objective design criteria for small wireless facilities to be collocated on decorative poles and reasonable and objective design criteria for utility poles deployed in areas with decorative poles. Such guidelines may be adopted by any appropriate means, including without limitation by inclusion in the authority's zoning code, but such inclusion shall not subject small wireless facilities and utility poles classified as permitted uses in subsection D of this section to zoning review. Such guidelines may be adopted only if they apply on a nondiscriminatory basis to all other occupants of the right-of-way, including the authority. A wireless provider that seeks to collocate small wireless facilities on a decorative pole shall comply with Section 4 of this act. A wireless provider that is required to replace a decorative pole at its expense in compliance with Section 5 of this act shall conform the new decorative pole to the design aesthetics and material of the decorative pole(s) being replaced.

H. Wireless providers shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from installing utility poles or other structures in the right-of-way in an area designated solely for underground or buried cable and utility facilities where:

1. The authority has required all cable and utility facilities other than authority poles and attachments to be placed underground (i) by a date certain before the application is submitted or (ii) by a date certain within two (2) years after the application is submitted, if relocation of facilities has commenced;

2. The authority does not prohibit the replacement of authority poles in the designated area; and

3. The authority permits wireless providers to seek a waiver of the undergrounding requirements for the placement of a new utility pole to support small wireless facilities, which waivers shall be addressed in a nondiscriminatory manner.

I. Subject to Section 4 of this act and subsection D of this section, and except for facilities excluded from evaluation for effects on historic properties under 47 C.F.R., Section 1.1307(a)(4) of the FCC rules, an authority may require reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures in a historic district. Any such design or concealment measures may not have the effect of prohibiting any provider's technology, nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

J. The authority, in the exercise of its administration and regulation related to the management of the right-of-way, must be competitively neutral with regard to other users of the right-of-way,

including that terms may not be unreasonable or discriminatory and may not violate any applicable law.

K. The authority may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and to return the right-of-way to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications of the authority. If the wireless provider fails to make the repairs required by the authority within a reasonable time after written notice, the authority may effect those repairs and charge the applicable party the reasonable, documented cost of such repairs. A wireless provider shall be required to comply with right-of-way and vegetation management practices adopted by the authority that apply to all occupants of the right-of-way.

L. Nothing in this act precludes an authority from adopting reasonable and nondiscriminatory requirements with respect to the removal of abandoned small wireless facilities. A small wireless facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of the facility must remove the small wireless facility within ninety (90) days after receipt of written notice from the authority notifying the owner of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the authority to the owner at the last-known address of the owner. If the owner neither provides the authority written notice that the small wireless facility has not been out of operation for a continuous period of twelve (12) months nor removes the small wireless facility within the ninety-day period, the authority may remove the small wireless facility, take ownership of the small wireless facility and assess the cost of removal to the owner.

Added by Laws 2018, c. 140, § 3, eff. Nov. 1, 2018.

§11-36-504. Permitting of small wireless providers – Permitting of utility poles.

A. The provisions of this section shall apply to the permitting of small wireless facilities by a wireless provider in or outside the right-of-way as specified in subsection C of this section and to the permitting of the installation, modification and replacement of utility poles by a wireless provider inside the right-of-way.

B. Except as provided in this act, an authority may not prohibit, regulate or charge for the collocation of small wireless facilities classified as permitted uses in subsection C of this section.

C. Small wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they comply with the height requirements in subsection E of Section 3 of this act and are collocated in the right-of-way in any zone or outside the right-

of-way in property not zoned exclusively for residential single-family or duplex use. Utility poles installed to support small wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they comply with the height requirements in subsection E of Section 3 of this act and are collocated in the right-of-way in any zone.

D. An authority may require an applicant to obtain one or more permits to collocate a small wireless facility or install a new, modified or replacement utility pole associated with a small wireless facility as provided in Section 3 of this act, provided such permits are of general applicability for nongovernmental users of the right-of-way and do not apply exclusively to wireless facilities. An authority shall receive applications for, process and issue such permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the authority including reserving fiber, conduit or pole space for the authority;

2. An applicant shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria in paragraph 8 of this subsection and, for an application to collocate on an authority pole, a wireless provider may be required to provide at its expense engineering analysis demonstrating compliance with applicable standards and codes, construction drawings stamped by a professional engineer registered in Oklahoma and a description of any recommended make-ready work, including any modification or replacement of the authority pole;

3. An authority may not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole;

4. Subject to subparagraphs e and f of paragraph 8 of this subsection, an authority may not limit the placement of small wireless facilities by minimum separation distances;

5. The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

6. Within twenty (20) days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority must specifically identify the missing information in writing. The processing deadline in paragraph 7 of this subsection

is tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority;

7. An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within seventy-five (75) days of receipt of the application;

8. An authority may deny a proposed collocation of a small wireless facility or installation, modification or replacement of a utility pole that meets the height requirements in subsection E of Section 3 of this act only if the proposed application:

a. materially interferes with the safe operation of traffic control equipment or emergency management systems or devices,

b. materially interferes with sight lines or clear zones for transportation or pedestrians,

c. materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement,

d. materially interferes with Federal Aviation Administration requirements or the operation of an airport or air traffic,

e. fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance that concern the location of new utility poles. Such spacing requirements shall not prevent a wireless provider from serving any location,

f. with respect to ground-mounted equipment, fails to comply with reasonable and nondiscriminatory requirements of general application adopted by ordinance that concern spacing of the ground-mounted equipment; interference with sight lines, clear zones or pedestrian access or movement; unhindered use of the right-of-way by other right-of-way occupants, including the authority; or design or concealment measures in a historic district required under subsection I of Section 3 of this act,

g. fails to comply with applicable codes, including without limitation the most recent version of the National Electrical Safety Code,

h. fails to comply with subsections D, G, H and I of Section 3 of this act,

i. causes the utility pole or wireless support structure to become structurally unsound, unless the applicant demonstrates that it will address the problem

adequately, such as by modifying or replacing the structure, or

j. materially interferes with the intended use of an authority pole;

9. The authority shall document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within thirty (30) days. Any subsequent review shall be limited to the deficiencies cited in the denial;

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed at the applicant's discretion to file a consolidated application for the collocation of up to twenty-five small wireless facilities and receive a single permit; provided, however, the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same batch;

11. Installation or collocation for which a permit is granted pursuant to this section shall be completed within one (1) year after the permit issuance date, unless the authority and the applicant agree to extend this period, or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to:

a. undertake the installation or collocation, and

b. subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated utility pole covered by the permit for a period of not less than ten (10) years, which must be renewed for equivalent durations so long as they are in compliance with the criteria set forth in paragraph 8 of this subsection;

12. Wireless providers shall comply with relocation requirements that apply to similarly situated occupants of the right-of-way; and

13. An authority may not institute, either expressly or de facto, a moratorium on:

a. filing, receiving or processing applications, or

b. issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification or replacement of utility poles to support small wireless facilities.

E. An authority shall not require an application for the following:

1. Routine maintenance;

2. The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or

3. For the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.

An authority may, however, require a permit to work within the right-of-way for such activities, if applicable. Any such permits shall not be subject to the requirements provided in subsections C and D of this section.

Added by Laws 2018, c. 140, § 4, eff. Nov. 1, 2018.

§11-36-505. Activities of wireless providers within right-of-way.

A. The provisions of this section shall apply to activities of the wireless provider within the right-of-way.

B. A person owning, managing or controlling authority poles in the right-of-way may not enter into an exclusive arrangement with any person for the right to attach to such poles. A person who purchases or otherwise acquires an authority pole is subject to the requirements of this section.

C. An authority shall allow the collocation of small wireless facilities on authority poles subject to the application process in Section 4 of this act and the make-ready process in this section. The rates, fees and terms for such collocations shall be nondiscriminatory regardless of the services provided by the collocating person, comply with this act and be made available to wireless providers under Section 10 of this act.

D. The rates, fees and terms and conditions for the make-ready work to collocate on an authority pole described in the application shall be nondiscriminatory, competitively neutral and commercially reasonable and must comply with this act. The authority may perform the make-ready work necessary to enable the pole to support the requested collocation by a wireless provider or require the wireless provider to perform the make-ready work. If the authority elects to perform the make-ready work, it shall provide a good-faith estimate for the work, including pole replacement if necessary, within sixty (60) days after receipt of a complete application. The authority shall complete any make-ready work it elects to perform, including any pole replacement, within sixty (60) days of written acceptance of the good-faith estimate by the applicant. An authority may require replacement of the authority pole only if it demonstrates that the collocation would make the authority pole structurally unsound. The authority may require that the replaced authority pole have the same functionality as the pole being replaced. If the authority pole is

replaced, the authority shall take ownership of the new pole and operate authority fixtures on the pole.

The person owning, managing or controlling the authority pole shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work including any pole replacement shall be reasonable and nondiscriminatory and shall not exceed actual costs, which may include the amount the authority pays a professional engineer registered in Oklahoma to review the wireless provider's make-ready work plans.

E. A wireless provider shall comply with the following requirements and specifications:

1. Requirements and specifications of the National Electrical Safety Code, the National Electrical Code and the Occupational Safety and Health Act, including amendments or revisions to such requirements or specifications, and in the event of conflict, the most stringent of such requirements and specifications;

2. Requirements and specifications of general application adopted by the authority that do not conflict with this act, including requirements and specifications that concern how equipment shall be attached to electric distribution poles so they may be climbed safely; and

3. Notwithstanding subsection D of this section, requirements and specifications of general application adopted by the authority concerning make-ready work for authority electric distribution poles. Added by Laws 2018, c. 140, § 5, eff. Nov. 1, 2018.

§11-36-506. Authority's rates and fees for placement of a wireless facility, support structure or utility pole.

A. This section shall govern an authority's rates and fees for the placement of a wireless facility, wireless support structure or utility pole.

B. An authority may not require a wireless provider to pay any rates, fees or compensation to the authority or other person other than what is expressly authorized by this act for the right to use or occupy a right-of-way, for collocation of small wireless facilities on utility poles in the right-of-way or for the installation, maintenance, modification, operation and replacement of utility poles in the right-of-way.

C. Application fees shall be subject to the following requirements:

1. An authority may charge an application fee only if such fee is required for similar types of commercial development or construction within the authority's jurisdiction;

2. An application fee may not include:

a. travel expenses incurred by a third party in its review of an application, or
b. direct payment or reimbursement of third-party rates or fees charged on a contingency basis or a result-based arrangement;

3. An application fee for a collocation shall be limited to the cost of granting a permit for similar types of commercial development or construction within the authority's jurisdiction. The application and permit fees for collocation of small wireless facilities on an existing or replacement authority pole shall not exceed Two Hundred Dollars ($200.00) each for the first five small wireless facilities on the same application and One Hundred Dollars ($100.00) for each additional small wireless facility on the same application; and

4. The application and permit fees for the installation, modification or replacement of a utility pole and the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications in subsection D of Section 3 of this act shall not exceed Three Hundred Fifty Dollars ($350.00) per pole for access to the right-of-way.

D. The rate for occupancy of the right-of-way shall not exceed Twenty Dollars ($20.00) per year per small wireless facility.

E. The rates to collocate on authority poles in the right-of-way shall not exceed Twenty Dollars ($20.00) per authority pole per year.

F. There shall be no rate charged for the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.

G. Rates provided in this section do not include any applicable charges for electric power. A wireless provider must pay separately for such services.

H. An authority may adjust the fees and rates it adopts under this section ten percent (10%) every five (5) years rounded to the nearest dollar.

Added by Laws 2018, c. 140, § 6, eff. Nov. 1, 2018.

§11-36-507. Exemption for investor-owned electric utilities or cooperatives.

This act does not impose or otherwise affect any tariff, contractual obligation or right, or federal or state law regarding utility poles, similar structures or equipment of any type owned or controlled by an investor-owned electric utility or electric cooperative.

Added by Laws 2018, c. 140, § 7, eff. Nov. 1, 2018.

§11-36-508. Activities in right-of-way – Exclusion of cable providers.

This section applies to activities in the right-of-way only. Nothing in this act shall be interpreted to allow any entity to provide services regulated under 47 U.S.C., Sections 521 to 573, without compliance with all laws applicable to such providers nor shall this act be interpreted to impose any new requirements on cable providers for the provision of such service in this state.
Added by Laws 2018, c. 140, § 8, eff. Nov. 1, 2018.

§11-36-509. Zoning, land use, planning and permitting authority - Exclusions.

Subject to the provisions of this act and applicable federal law, an authority may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries with respect to wireless support structures and utility poles. No authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium or athletic facility not owned or controlled by the authority, other than to comply with applicable codes. An authority shall evaluate the structure classification for wireless support structures under the latest version of ANSI/TIA-222. Nothing in this act authorizes the state or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.
Added by Laws 2018, c. 140, § 9, eff. Nov. 1, 2018.

§11-36-510. Ordinance, resolution or standard agreement for rates, fees and other terms.

A. An authority may adopt an ordinance, resolution or standard agreement that makes available to wireless providers rates, fees and other terms that comply with this act.

1. Subject to subsections B, C, D and E of this section, in the absence of an ordinance, resolution or standard agreement that fully complies with this act and until such a compliant ordinance, resolution or standard agreement is adopted, if at all, wireless providers may collocate small wireless facilities on wireless support structures and utility poles other than electric distribution poles and may install and operate utility poles under the requirements of this act.

2. Upon request, an authority shall enter into a pole attachment agreement with a wireless provider for the collocation of small wireless facilities on electric distribution poles. The rates, fees and terms of the pole attachment agreement shall be reasonable and nondiscriminatory and shall comply with this act. If the wireless provider and the authority are not able to reach agreement within ninety (90) days of the request for a pole attachment agreement, the authority shall make a best-and-final offer to the wireless provider

within fifteen (15) days of the expiration of the ninety-day period. The best-and-final offer shall be in the form of a pole attachment agreement that is reasonable and nondiscriminatory, complies with this act and may be accepted and signed by the wireless provider. If the authority fails to make such a best-and-final offer within fifteen (15) days of the expiration of the ninety-day period, the wireless provider may collocate small wireless facilities on the authority's electric distribution poles under the requirements of this act until the authority makes such a best-and-final offer.

B. Agreements between an authority and a wireless provider for the deployment of small wireless facilities in the right-of-way under the terms of this act are public/private agreements.

C. An agreement, ordinance or resolution that does not fully comply with this act may apply only to small wireless facilities and utility poles that became operational or were installed before the effective date of this act. An agreement, ordinance or resolution that applies to small wireless facilities and utility poles that became operational or were constructed before the effective date of this act is invalid and unenforceable beginning on the one-hundred-eighty-first day after the effective date of this act unless it fully complies with this act. If an agreement, ordinance or resolution is invalid in accordance with this subsection, in the absence of an agreement, ordinance or resolution that fully complies with this act and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and utility poles that became operational or were constructed before the effective date of this act may remain installed and be operated under the requirements of this act.

D. An agreement, ordinance or resolution that applies to small wireless facilities and utility poles that become operational on or after the effective date of this act may not be enforced beginning on the effective date of this act unless it fully complies with this act. If an agreement, ordinance or resolution is invalid in accordance with this subsection, in the absence of an agreement, ordinance or resolution that fully complies with this act and until such a compliant agreement, ordinance or resolution is entered or adopted, small wireless facilities and utility poles may be installed and operated in the right-of-way or become operational under the requirements of this act.

E. Notwithstanding the requirements in subsections C and D of this section, a communications service provider that has executed an agreement with an authority relating to small wireless facilities and utility poles prior to the effective date of this act may choose to continue to be subject to the rates, terms and conditions of that agreement for up to five (5) years beyond the effective date of this act.

Added by Laws 2018, c. 140, § 10, eff. Nov. 1, 2018.

§11-36-511. Jurisdiction for disputes – Rates pending resolution.

A court of competent jurisdiction shall have jurisdiction to determine all disputes arising under this act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority poles and nonauthority poles, the person owning or controlling the pole shall allow the collocating person to collocate on its poles at annual rates of no more than Twenty Dollars ($20.00) with rates to be trued up upon final resolution of the dispute.

Added by Laws 2018, c. 140, § 11, eff. Nov. 1, 2018.

§11-36-512. Indemnification, insurance and bonding requirements.

A. An authority may adopt indemnification, insurance and bonding requirements related to small wireless facility permits subject to the requirements of this section.

B. An authority may require a wireless provider to defend, indemnify and hold harmless the authority and its officers, agents and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses and attorney fees resulting from the installation, construction, repair, replacement, operation or maintenance of wireless facilities, wireless support structures or utility poles to the extent caused by the wireless provider, its contractors, subcontractors and their officers, employees or agents. A wireless provider has no obligation to defend, indemnify or hold harmless an authority, its officers, agents or employees against any liabilities or losses due to or caused by the sole negligence of the authority or its employees or agents.

C. An authority may require a wireless provider to have in effect insurance coverage naming the authority and its officers, agents and employees as additional insureds against the claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses and attorney fees described in subsection B of this section, so long as the authority imposes similar requirements on other right-of-way users and such requirements are reasonable and nondiscriminatory.

D. An authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of any permit issued for a small wireless facility.

E. An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other right-of-way users.

1. The purpose of such bonds shall be to:

   a. provide for the removal of abandoned or improperly maintained small wireless facilities, including those that an authority determines need to be removed to protect public health, safety or welfare,

b. restoration of the right-of-way in connection with removals under this paragraph, or

c. recoup rates or fees that have not been paid by a wireless provider in over twelve (12) months, so long as the wireless provider has received reasonable notice from the authority of any of the noncompliance listed above and an opportunity to cure.

2. An authority shall not require either of the following under paragraph 1 of this subsection:

a. a cash bond, unless any of the following apply:

(1) the wireless provider has failed to obtain or maintain a bond required under this section, or

(2) the surety has defaulted or failed to perform on a bond given to the authority on behalf of the wireless provider, or

b. a bond in an amount exceeding One Thousand Dollars ($1,000.00) per small wireless facility.

Added by Laws 2018, c. 140, § 12, eff. Nov. 1, 2018.

§11-37-101. Definitions.

For the purpose of Sections 37-101 through 37-127, the term "waterworks" shall mean any water supplies, facilities, plants and equipment necessary for the supply and distribution of water, including, but not limited to, dams, lakes, reservoirs, canals, wells, water plants and pipelines.

Laws 1977, c. 256, § 37-101, eff. July 1, 1978.

§11-37-102. General powers as to waterworks and water supply.

The municipal governing body may purchase, erect, lease, rent, manage, and maintain any system or part of a system of waterworks and water supply. It may establish and alter the channels of watercourses and may establish and regulate wells, cisterns, aqueducts, and reservoirs of water. The governing body may pass all ordinances, penal or otherwise, that are necessary and proper for the full protection, maintenance, management, and control of said facilities, may make provisions for taxes for these purposes, and may do all things necessary and proper in its discretion to exercise the powers authorized by the Constitution and laws of this state and to further the ability of the municipality to provide water supplies, services, and facilities.

Amended by Laws 1984, c. 126, § 65, eff. Nov. 1, 1984.

§11-37-103. Appropriation of land and water rights.

A. The municipal governing body may dam any river or stream which is not navigable, and condemn, appropriate and divert the water from such river or stream, or so much thereof, as may be deemed necessary; and may condemn and appropriate in the name of and for the

use of the municipality any land located in or outside of the corporate limits of the municipality as may be necessary for the construction and operation of waterworks. The appropriation of land or of water rights by any municipality shall be governed by the procedure prescribed for the condemnation of land for railway purposes. The water and the right to divert the water may be described, at the option of the municipality, in capacity by a given number of gallons daily, or as a quantity sufficient for the purposes. Upon the payment made or deposit of the award of the commissioners to the clerk of the district court, the municipality shall be vested with the perpetual right to use the land so condemned and the right to divert the water so condemned for the purposes mentioned herein. The exercise of this power shall be a continuing right and not exhausted by one or more exercises thereof. B. The provisions of this section and Sections 37-104 and 37-105 of this title shall be construed as cumulative to the rights and powers already possessed by municipalities to purchase, take and condemn land for public uses.
Laws 1977, c. 256, § 37-103, eff. July 1, 1978.

§11-37-104. Acquiring lands - Protection from contamination.

Any municipality may purchase or condemn and hold the perpetual right to use any lots or lands, either within or without the corporate limits of the municipality, which the municipal governing body determines by resolution to be necessary for acquisition by the municipality in order to locate and build or enlarge, at the time or in the future, waterworks and every auxiliary part thereof, including reservoir site or sites to be flooded, and the lands adjacent thereto and within six hundred sixty (660) feet of the margin of the reservoir at maximum high water. The governing body may protect from possible contamination or pollution and police any such lands in order to protect any reservoir already constructed or proposed to be constructed or enlarged as a part of any municipal waterworks plant or water supply, the waters thereof, and the waters flowing therein or percolating or seeping thereto. The property and land so acquired before and after the passage of this subarticle, insofar as such lands are within six hundred sixty (660) feet of the margin of a reservoir at maximum high water and necessary for natural drainage into the reservoir, shall not be used by the municipality, its lessees or assigns, or other persons or corporations, for any purpose other than the protection of the reservoir and the waters thereof from contamination and pollution. No structures shall be placed on such lands by the municipality, individual or corporation, except as are necessary in the furtherance of the protection of the reservoir from contamination or pollution, and in the use of the water.
Laws 1977, c. 256, § 37-104, eff. July 1, 1978.

§11-37-105. Condemnation procedure for acquiring land for waterworks.

A municipality is vested with the power of eminent domain for the purpose of acquiring lands for the location and building or enlargement of waterworks. The proceedings for the condemnation thereof, including the notices, appointment of commissioners, assessment of damages, possession, payment of compensation and appeals, shall be the same as is provided by law for the condemnation of lands for railroad purposes. It shall not be necessary in such condemnation proceedings to allege or prove any negotiations for the purchase of any lands or interests therein with:

1. The owner or owners or claimants of any property sought to be condemned, where such ownership does not appear clearly from the title records in the office of the county clerk of the county where the lots or lands are situated; or

2. The heirs of the person or persons who appear from such records to be the owner or owners, or persons who hold or claim under such heirs, and the lands have not been partitioned at the time the petition to condemn is filed.

The notice of application for appointment of commissioners to assess damages in condemnation proceedings may be given by publication as provided by law regulating the condemnation of lands for railroad purposes for notice to nonresidents.

Laws 1977, c. 256, § 37-105, eff. July 1, 1978.

§11-37-106. Issuing bonds - Election.

To defray the cost of procuring waterworks, and the election provided in this section, the municipal governing body may provide for the issuance of bonds of the municipality. Before any bonds may be issued, the municipal governing body shall submit the question of issuing the bonds to the registered voters of the municipality at any general election or special election called by them for that purpose. Notice of the election shall be given in the manner provided by law for municipal elections; and the election shall be conducted in all respects as other municipal elections.

Laws 1977, c. 256, § 37-106, eff. July 1, 1978.

§11-37-107. Bonds for waterworks - Form.

Upon the approval of a majority of the registered voters of the municipality voting on the question, the bonds shall be issued by the governing body in the manner provided by the Constitution and laws of Oklahoma. Bonds issued under this section shall be payable not more than twenty-five (25) years from the date of their issue, with interest thereon at a rate not exceeding a maximum rate established by law. The bonds shall be signed by the mayor and countersigned by the municipal clerk. Facsimile signatures may be used as provided in the Registered Public Obligations Act of Oklahoma.

Amended by Laws 1983, c. 170, § 18, eff. July 1, 1983.

§11-37-108. Employment of engineers - Acts necessary for erection, operation and repair.

The municipal governing body may appoint and employ all engineers and other officers to superintend and operate waterworks both during and after the construction of the same as may be necessary. The governing body may do all acts it deems necessary for the erection or operation, alteration and repair of the waterworks.
Laws 1977, c. 256, § 37-108, eff. July 1, 1978.

§11-37-109. Water charges - Enforcement.

The municipal governing body shall fix the water charges to be paid by the consumer and provide by ordinance for appropriate penalties for the violation thereof as the governing body may deem proper for the regulation and protection of the waterworks.
Laws 1977, c. 256, § 37-109, eff. July 1, 1978.

§11-37-110. Establishing water districts - Regulations to protect water supply.

The governing body of any municipality securing its water supply from a stream or reservoir located outside of its corporate limits may designate by ordinance a district to be known as a water district. The water district shall be designated by metes and bounds and may embrace any lands, directly or indirectly flowing or shedding water into any such stream or reservoir as the governing body ordains. The governing body may adopt and enforce any rules promulgated by the Board of Environmental Quality for the protection of any such water supply.
Laws 1977, c. 256, § 37-110, eff. July 1, 1978; Laws 1994, c. 353, § 1, eff. July 1, 1994.

§11-37-111. Publication of rules and ordinances affecting water district - Service.

All rules promulgated by the Board of Environmental Quality and adopted by, and all ordinances of, the governing body for the protection of the water supply and establishment of the water district shall be published in the same manner as ordinances. A copy of the ordinances and adopted rules shall be served, as provided by law in civil actions, on each person, firm, association or corporation owning property in the water district, and upon the head of each family residing in the water district. All ordinances and adopted rules shall also be posted in conspicuous places in the water district.
Laws 1977, c. 256, § 37-111, eff. July 1, 1978; Laws 1994, c. 353, § 2, eff. July 1, 1994.

§11-37-112. Making and enforcement of regulations - Expenses.

The making, enforcement and penalties for the violation of any rules and regulations for the protection of the water supply and water district shall be governed in all respects by the provisions of state law on public water supplies and standards. All expenses incident to and connected with the establishment of any water district, and the making and enforcement of any and all rules and regulations for the protection thereof, shall be borne by the municipality and paid as are other claims against the municipality relating to its water supply.

Laws 1977, c. 256, § 37-112, eff. July 1, 1978.

§11-37-113. Highways crossing reservoir sites - Power to close.

Any municipality having acquired possession by purchase, condemnation, gift or otherwise, of a reservoir site for a public water supply may close to travel any section line or public road leading into or through the reservoir site.

Laws 1977, c. 256, § 37-113, eff. July 1, 1978.

§11-37-114. Punishment for injuries to reservoir fences.

It shall be unlawful for any person to cut, damage or otherwise interfere with any fence enclosing any reservoir or other site which supplies any municipality with water. Such unlawful injuries to reservoir fences shall constitute a misdemeanor, and any person found violating the provisions of this section, upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars ($50.00) or by imprisonment in the county jail for not less than thirty (30) days, or by both such fine and imprisonment.

Laws 1977, c. 256, § 37-114, eff. July 1, 1978.

§11-37-115. Pollution of municipal water supply unlawful.

No person, firm, partnership, or corporation, or any of the partners, officers, managers, or employees thereof, shall pollute or permit the pollution of the water supply of a municipality, or any stream, pond, spring, lake, or other water reservoir or groundwater aquifer, which is used or which is being held for use as a water supply by a municipality. A municipality may bring an action in the district court to enjoin any activity that will cause pollution of the water supply of a municipality whether or not such activity is regulated, licensed, or inspected. For the purposes of this section, the term pollution means contamination or other alteration of the physical, chemical, or biological properties of any natural waters of the state, or such discharge of any liquid, gaseous, or solid substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to the health, safety, or welfare of the general public, or to domestic, commercial, industrial, agricultural, recreational, or

other legitimate beneficial uses, or to livestock, wild animals, birds, or fish or other aquatic life.
Amended by Laws 1984, c. 126, § 66, eff. Nov. 1, 1984.

§11-37-116. Action for damages for pollution of municipal water supply.

A municipality shall have a right of action for damages resulting from pollution of its water supply, as provided in Section 37-115 of this title, and the measure of damages shall be the amount which will compensate for the detriment caused thereby, whether it could have been anticipated or not. Where such pollution is continued for a period of six (6) months or more, the injury shall be regarded as permanent.
Laws 1977, c. 256, § 37-116, eff. July 1, 1978.

§11-37-117. Acquiring lands and water for future needs - Sale outside corporate limits no defense.

Any municipality owning and operating or proposing to own and operate a system of waterworks to supply the municipality, and the inhabitants thereof with water may provide for its contemplated future water and waterworks requirements, in advance of its immediate needs. For that purpose the governing body may acquire lands and water both within and without the corporate limits of the municipality and within the State of Oklahoma. Such municipalities are vested with the power of eminent domain for that purpose, such power to be exercised in the manner provided by law for the condemnation of lands by municipalities for waterworks purposes. It shall be no defense against the exercise of such power or eminent domain that the municipality is selling and furnishing water to other municipalities or to persons, firms or corporations without the corporate limits of the municipality.
Laws 1977, c. 256, § 37-117, eff. July 1, 1978.

§11-37-118. Acquisition of title or interest of land or water in adjoining states.

For use in connection with the acquisition, establishment, betterment or expansion, and the maintenance or operation of its municipal waterworks system, any municipality may acquire title to, or any lesser interest in, any lands or water rights, or both, in any state adjoining the State of Oklahoma, which lie within any watershed from which the municipality obtains, or desires to obtain, its municipal water supply. The municipality may acquire any necessary easements or rights-of-way for pipelines to convey water from such water supply to a point or points within the State of Oklahoma, over and across lands not within such watershed, if, and to the extent, and in the manner, permitted by the laws of the adjoining state.
Laws 1977, c. 256, § 37-118, eff. July 1, 1978.

§11-37-119. Contracts for water - Provision for modification of rates - Outside users subject to rationing program of municipality.

A. All contracts for the sale or furnishing of water from a source obtained by or on behalf of a municipality by permit or prior right under state law or by general obligation bonds shall be made in the name of the municipality as provided for by statute or by charter.

B. All such water sold and furnished to persons or public or private entities outside the corporate limits of the municipality shall be sold and furnished upon written contracts which shall provide for an annual review of the municipality's costs and contract modification of rates to permit rates to be increased or decreased to the purchasers as appropriate. Any modification shall be nondiscriminatorily allocated between the municipality's customers and the purchaser. Provided, however, that only those costs that are attributable to maintaining the ability of the municipality to provide water service to the purchaser shall be included in purchaser's rates.

The contracts shall provide that the persons or public or private entities outside the corporate limits of the municipality shall be subject to a rationing program consistent with any rationing program ordered by the municipality.

Added by Laws 1977, c. 256, § 37-119, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 67, eff. Nov. 1, 1984; Laws 1989, c. 74, § 1, operative July 1, 1989; Laws 1991, c. 313, § 2, eff. Sept. 1, 1991; Laws 1994, c. 339, § 1, eff. emerg. June 8, 1994.

§11-37-119a. Sale of water outside corporate limits - Failure to implement enterprise accounting system - Liability to purchaser.

Beginning July 1, 1996, if a municipality selling water to persons or public or private entities outside its corporate limits has not implemented an enterprise accounting system to account for the cost of water supply, treatment and delivery to the point of delivery to the purchaser's water system, it shall be liable to the purchaser for the reasonable expenses of such an accounting exceeding the expense which the purchaser would have incurred using an enterprise accounting system.

Added by Laws 1994, c. 339, § 2.

§11-37-120. Extension of lines beyond limits - Contracts for furnishing water outside limits.

Any municipality owning or operating its own waterworks plant and every municipality engaged in the distribution of water may extend its lines beyond the corporate limits of such municipality and may acquire, construct, own, maintain and operate all necessary lines, apparatus and equipment, and acquire rights of way, and do all things

necessary and proper in carrying on the business and furnishing water to any person, firm, corporation or other municipality beyond the corporate limits of the municipality, to the same extent as it may now do within the corporate limits of the municipality. All water so sold and furnished to persons, firms, corporations and other municipalities beyond and without the corporate limits of the municipality so selling and furnishing the same shall be sold and furnished only under written contracts upon such terms and conditions as may be agreed upon by negotiation between the municipality and such persons, firms, corporations or other municipalities. Nothing herein contained shall be construed to impose any duty or obligation upon any municipality to sell or furnish water to any person, firm, corporation or municipality beyond its corporate limits except as the municipality may expressly undertake by the terms of the written contract.
Laws 1977, c. 256, § 37-120, eff. July 1, 1978.

§11-37-121. Contract or lease for purchase, sale and distribution of water - Extensions.

The municipal governing body may enter into a contract or lease program as a governmental function for the purpose of buying, selling, or distributing water with any nonprofit organization, person, or water development or distribution corporation inside or outside of the municipal limits in areas that the municipality is not supplying or servicing with a source of water at the time that the contract and lease arrangement is made. The annual contracts for sale and purchase of water may be extended from year to year at the option of the contracting parties. All said facilities, contracts, leases, activities, programs, and performance thereof, on behalf of the municipality, shall be governmental in nature.
Amended by Laws 1984, c. 126, § 68, eff. Nov. 1, 1984.

§11-37-122. Contract with United States - Provisions authorized - Validation of existing contracts.

Any municipal governing body, or any agency, instrumentality or public trust of which a municipality is beneficiary thereof, or appropriate board or commission subject to the approval of the municipal governing body, may enter into and do every act necessary to carry out a contract with the United States of America or agency thereof for furnishing a municipal water supply to the municipality, all upon such terms as to use of water, payment therefor, and other conditions as may be agreed upon between the United States or agency thereof and the municipal governing body or any agency, instrumentality or public trust of which a municipality is beneficiary thereof. Incident to procuring a municipal water supply in the manner provided herein, any contract authorized by this

section may provide for, but is not limited to, either or both of the following:

1. The replacement or exchange of water or water rights; or

2. The transfer or conveyance by the municipality to the United States of water, water rights, dams, easements or real or personal property of any kind whatsoever needed by the United States in connection with the construction or operation and maintenance of any such irrigation project.

Any contract authorized by this section, heretofore entered into by any municipality, is hereby ratified, validated and confirmed.

Laws 1977, c. 256, § 37-122, eff. July 1, 1978; Laws 1980, c. 90, § 1.

§11-37-123. Use of water outside corporate limits for park purposes.

Any municipality owning and operating waterworks or water plants for the purpose of supplying the municipality and the inhabitants thereof with water may make use of such water for park or other public purposes without the corporate limits of the municipality.

Laws 1977, c. 256, § 37-123, eff. July 1, 1978.

§11-37-124. Joint construction and operation of waterworks - Election.

Any municipality may conduct an election, in the manner provided by law for municipal elections, for the purpose of securing approval of the registered voters within its corporate limits to enter into a contract with any other municipality to finance the construction, maintenance, control and operation of waterworks necessary to provide such municipalities with an adequate supply of water for public purposes.

Laws 1977, c. 256, § 37-124, eff. July 1, 1978.

§11-37-125. Joint financing of waterworks.

Waterworks which are jointly constructed, maintained, controlled or operated by two or more municipalities may be financed by the issue and sale of bonds and collection of water charges, as provided in Sections 37-106 through 37-109 of this title. The governing bodies of such municipalities are hereby specifically authorized to enter into agreement and contract as to the amount of each municipality's indebtedness and proportionate share of cost of construction, maintenance, control and operation of any waterworks jointly acquired under the provisions of Section 37-124 of this title; provided that in all cases where a proposition is submitted to the registered voters of any municipality for the voting of bonds to defray costs of such a joint contract, the election notice and ballot shall so state.

Laws 1977, c. 256, § 37-125, eff. July 1, 1978.

§11-37-126. Joint construction deemed supplemental.

The provisions of Sections 37-124 and 37-125 of this title, authorizing the joint construction and financing of waterworks and water supplies, shall be deemed to provide an additional and alternative method for doing the things authorized thereby, and shall be construed as supplemental and additional to all other powers granted by law.

Laws 1977, c. 256, § 37-126, eff. July 1, 1978.

§11-37-127. Municipalities outside Oklahoma - Purchase of lands for water in Oklahoma.

An incorporated municipality of a state adjoining the State of Oklahoma is hereby granted permission, if authorized or empowered by the laws of such adjoining state to do so, to acquire by purchase from a private corporation which may be furnishing water to water users in the municipality, or which may be furnishing water to the municipality for resale to water users therein, the title to, or lesser interest in, lands that the private corporation owns in the State of Oklahoma. The municipality may also acquire any easements or rights-of-way then owned by such corporation over and across other lands within the State of Oklahoma necessary for pipelines to convey water from a reservoir to a point or points outside the State of Oklahoma. Such lands, easements and rights-of-way acquired by the municipality may be used in connection with, but only used in connection with, the establishment, betterment or expansion of a municipally-owned water supply or system; the necessary protection of the water supply from pollution; or the maintenance and operation of the municipally-owned water supply or system. The municipality may continue to hold lands, easements and rights-of-way so acquired as long as the same are so used. In order to transfer or convey any of its interests in Oklahoma lands, the private corporation shall have owned the title to, or any lesser interest in, lands within the State of Oklahoma as of April 25, 1957, upon which is located, in whole or in part, a reservoir from which such water or portion thereof is obtained, which reservoir has been in existence on the lands for more than one (1) year prior to April 25, 1957, and which land, or interest therein, has been owned by the corporation for more than fifteen (15) years prior to April 25, 1957.

Laws 1977, c. 256, § 37-127, eff. July 1, 1978.

§11-37-128. Public water trusts – Supervision by municipalities – Penalties - Exceptions.

A. Any public water trust formed pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes whose beneficiary is the state, any county or municipality or any combination thereof, supplying water directly to residents of a municipality, shall be

subject to general supervision by such municipality with regards to any waterworks within the city limits of the municipality.

B. 1. The municipality shall have power to promulgate regulations and enact ordinances affecting the services, operation, management, rates and manner of conduct of the business of any public water trust having waterworks within the city limits of the municipality.

2. The municipality shall have full visitorial and inquisitorial power to examine the records of such public water trust and keep informed as to the general condition, rates, plants, equipment, apparatus, conduct, operation, practices and services, and compliance with regulations and ordinances and laws of this state with respect to the waterworks within the city limits of the municipality and with respect to any other management or conduct of the public water trust which affects any of the waterworks within the city limits of the municipality.

C. It shall be unlawful for any public water trust to operate any waterworks within the city limits of a municipality in violation of the regulations promulgated or ordinances enacted by the municipality pursuant to this section.

D. 1. Any person who violates any of the provisions of any regulation promulgated or ordinance enacted issued pursuant to this section, upon conviction thereof, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

2. In addition to any criminal penalty imposed pursuant to this subsection, a public water trust which has been determined by the municipality to have violated any regulation or ordinance issued pursuant to this section may be liable for a civil penalty of not more than Five Hundred Dollars ($500.00) for each day that such violation continues. The amount of such penalty shall be assessed by the municipality, after notice and hearing.

E. 1. The district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of such violation of any regulation or order issued pursuant to this section.

2. The court has jurisdiction to determine such action and to grant the necessary or appropriate relief, including, but not limited to, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

F. The provisions of this section shall not apply to:

1. Any public trusts formed as rural water districts and established pursuant to the Rural Water, Sewer, Gas and Solid Waste Management District Act;

2. Any municipality in a county having a population less than Two Hundred Fifty Thousand (250,000) persons; or

3. Waterworks or water systems owned or operated by a municipality or by any public trust of which a municipality is the sole beneficiary.

G. For purposes of this section, "waterworks" means facilities used in the procurement, supply, treatment, storage, pumping or distribution of water for human consumption or fire protection, and includes the necessary facilities from the initial source to the place for consumer utilization.

Added by Laws 2000, c. 252, § 1, eff. Sept. 30, 2000.

§11-37-201. Authorization to establish lines and facilities - Joint efforts - Acceptance of grants.

The municipal governing body may:

1. Authorize the construction of mains, submains and laterals for sewers, also ditches, drains, conduits, pipelines and channels for sanitary and drainage purposes, or either or both thereof, with lift stations, outlets, manholes, catch basins, flush tanks, connecting sewers, ditches, drains, conduits, channels and other appurtenances in, under, over or through any street, or any land of the municipality or any right-of-way granted or obtained for such purpose, either within or without the limits of the municipality;

2. Authorize the construction of mains, submains and laterals for water distribution lines, water distribution systems or waterworks, and water supply facilities for same; also ditches, canals, channels, conduits, pipelines and siphons, together with the necessary or usual appurtenances for carrying storm water or water from irrigation ditches, water courses, streams, springs, wells, lakes, treating plants or other sources of supply into, through or out of the municipality in, under, over or through any street or any land of the municipality or any right-of-way granted or obtained for such purpose, either within or without the limits of the municipality;

3. Join with other municipalities or any improvement district or sanitary district of the state, or any of its departments or agencies, the federal government or any of its departments, agencies or instrumentalities, as may be provided by law, in the construction, operation or maintenance of improvements authorized by the provisions of Sections 37-201 through 37-234 of this title; and

4. Accept from the state, or federal government, or any agency, department or instrumentality of either, grants for or in aid of the construction or engineering planning of any of the improvements provided herein, and enter into contracts with the state, the federal government, or any agency, department or instrumentality of either or both, for the construction or supervision of construction by the state, the federal government, or any agency, department or instrumentality, for either or both of any such improvements, in accordance with the plans, specifications, rules and regulations of

the state, the federal government, or any agency, department or instrumentality or either or both, but reserving to the municipality the right to assess against the property benefited by the improvement and located within the municipality, that portion of the cost of the improvement which does not qualify for aid under the state or federal grant.
Laws 1977, c. 256, § 37-201, eff. July 1, 1978.

§11-37-202. Public and district sewers - Public and district water distribution lines.

In all municipalities where a system of public waterworks is maintained and operated, or created, the municipal governing body shall have power to cause a general sanitary, storm or combination sewer system to be established, which shall be composed of two classes of sewers: public and district sewers. The governing body may also cause a water distribution system and water supply facilities to be established composed of public and district water distribution lines. Such systems may be created separately or in conjunction with each other.
Laws 1977, c. 256, § 37-202, eff. July 1, 1978.

§11-37-203. Location of public sewers - Dimensions - Regulations.

Public sewers shall be established along the principal courses of drainage, at such points, to such extent, of such dimensions and under such regulations as may be determined by the governing body. These public sewers may be extensions or branches of sewers already constructed or entirely new throughout as may be deemed expedient by the municipal governing body.
Laws 1977, c. 256, § 37-203, eff. July 1, 1978.

§11-37-204. Location of public water distribution system - Main lines of conveyance.

The public water distribution system shall consist only of the main lines of conveyance from the sources of supply, and the main lines for general distribution, including such other property as may be necessary in connection therewith for the proper maintenance and use of the water distribution system throughout the municipality. The public distribution lines shall be established along the principal courses of distribution, or of supply, at such points, to such extent, of such dimensions and under such regulations as may be provided by the governing body; and these principal lines of distribution may be extensions or branches of lines already

constructed or entirely new throughout as may be deemed expedient and necessary by the municipal governing body.
Added by Laws 1977, c. 256, § 37-204, eff. July 1, 1978.

§11-37-205. Payment of construction and maintenance of public sewers and water lines - Petition.

Except as otherwise provided, the construction and maintenance of public sanitary sewers, storm sewers, and public waterlines shall be paid for as follows:

1. Unless otherwise provided for in this section, all mains and submains constructed by a municipality shall be paid for by the municipality. If a petition signed by the owners of more than one-half (1/2) of the area of the land that will be drained or benefited by the construction of such mains or submains is filed with the governing body or the governing body finds that certain property will be specially benefited thereby, the governing body may create a district and order the construction of such mains and submains and provide for the payment therefor to be made by the owners of the property included within the district in accordance with the procedure for the construction of and payment for district sewers and district waterlines. The petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements;

2. Laterals shall be paid for by the owners of the property abutting on such laterals in the manner provided for by law for the estimate of cost and assessments for district sewers and district waterlines;

3. If a main or submain is constructed in any alley or other place where a lateral would otherwise have been constructed and the main or submain serves the purpose of a lateral for the property abutting thereon, the owners of the property shall be assessed in amounts equal to that which they would have been required to pay for a sufficient lateral; and

4. If any private connection is made with a main or submain instead of with a lateral, the owner of the premises so connected shall pay to the municipality an amount equal to that which he would have been required to pay for a lateral so constructed as to provide similar service. The amounts to be charged for connections with mains and submains, or for mains or submains used as laterals, shall be ascertained by the municipal engineer or the engineer in charge of such work and assessed against the property and collected in the manner provided for by law in the case of district sewers.
Added by Laws 1977, c. 256, § 37-205, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 69, eff. Nov. 1, 1984; Laws 2001, c. 54, § 2, eff. Nov. 1, 2001.

§11-37-206. Establishment of district sewer and water distribution lines - Petition.

District sewers and district water distribution lines shall be established within the limits of the districts, to be prescribed by ordinance. District sewers shall connect with public sewers or other district sewers, or with the natural course of drainage, as each case may be. District water distribution lines in contiguous or noncontiguous areas may connect with public distribution lines, or other district distribution lines. The governing body shall cause sewers and/or district water distribution lines to be constructed in each district whenever the record owners of more than one-half the area of land liable to assessments for the improvement shall petition therefor. The petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. The districts may include mains and submains where the same are within the limits of the district or are necessary outlets or supply lines thereto. Added by Laws 1977, c. 256, § 37-206, eff. July 1, 1978. Amended by Laws 2001, c. 54, § 3, eff. Nov. 1, 2001.

§11-37-207. Costs of district sewer and water distribution lines.

The costs of district sewers and district water distribution lines, including mains and submains properly included in the district, shall be assessed and collected as hereinafter provided. The municipality shall incur no liability for building district sewers, except when the municipality is the owner of a lot within the district, and in that case the municipality shall be liable for the costs of the sewer in the same manner as other property owners within the district.
Laws 1977, c. 256, § 37-207, eff. July 1, 1978.

§11-37-208. Construction of lines through private property - Condemnation.

No sewer or water line shall run diagonally through private property when it is practicable, without injury to the sewer or water line, to construct it parallel with one of the exterior lines of such property; nor shall any public sewer or public water line be constructed through private property when it is practicable to construct it along or through a street, alley or other public highway. The municipal governing body shall have the power to condemn private property for public use, occupation or possession in the construction and repair of public and district sewers and water distribution lines, in the same manner as other property is condemned within the municipality for public uses.
Laws 1977, c. 256, § 37-208, eff. July 1, 1978.

§11-37-209. District sewer or water lines without petition - Preliminary plans and costs.

Whenever the governing body deems district sewers or district water distribution lines necessary, it may proceed with such work without petition, and shall require, by resolution, the municipal engineer, or other registered professional engineer, to prepare and file preliminary plans, showing a preliminary estimate of the cost of such improvement, and an assessment plat showing the area to be assessed. In the event noncontiguous areas are included in the same district, separate preliminary estimates shall be filed as to each area. The governing body may adopt any material or methods for the construction of such work.
Laws 1977, c. 256, § 37-209, eff. July 1, 1978.

§11-37-210. Special attorneys, auditors or consulting engineers.

The municipal body may contract for the services of special attorneys, auditors or consulting engineers to make the necessary surveys, and prepare plans, plats, profiles, estimates and all other details for the work of improvements and to supervise the work. Any such consulting engineer shall be a person, firm or corporation, resident in the State of Oklahoma, and duly registered as an engineer in the State of Oklahoma. A consulting engineer may be employed also to furnish the necessary advertising, printing, transcripts, legal fees, preparation of assessment rolls, and such other expense as may be necessary. The municipality shall provide for the payment of such services and expenses from the assessments to be levied as part of the cost of such improvments, except as otherwise provided.
Laws 1977, c. 256, § 37-210, eff. July 1, 1978.

§11-37-211. Examination and approval of plans - Resolution of necessity.

Upon the filing of the preliminary plans, preliminary estimate and assessment plat, the governing body shall examine them and, if found satisfactory, shall adopt and approve them by resolution, and declare such work of improvement necessary to be done. The resolution shall:

1. Contain the time and place that the governing body will hold a hearing on the proposed improvement; and

2. Direct the municipal clerk to give notice as required in Section 37-212 of this title.

The resolution shall further provide that:

1. Any person, firm, corporation, administrator or guardian holding title to the land liable to assessment may file, within fifteen (15) days after the last publication of notice, with the clerk a protest in writing against the improvement; and

2. The municipality may proceed to cause the improvements to be made, contract therefor and levy assessments for the payment thereof,

if the record owners of more than one-half, in area, of the land liable to be assessed do not file their written protest as provided in this section.
Laws 1977, c. 256, § 37-211, eff. July 1, 1978.

§11-37-212. Notice of resolution of necessity - Publication and mailing.

A. The resolution of necessity shall be published in at least two (2) consecutive Thursday issues of a daily newspaper, or at least two (2) consecutive issues of a weekly newspaper, which newspaper shall be of general circulation in the municipality.

B. Not less than ten (10) days before the date of the first hearing affecting the proposed district, as set forth in the resolution of necessity, the clerk shall notify each listed owner of lots or tracts of land within the district as shown by the current year's tax rolls in the county treasurer's office, which list shall be furnished by the engineer, as follows:

1. By mailing a postal card directly to the listed owner at his last-known address as shown by the tax roll, notifying the owner of the initiation of proceedings and advising him that his property, describing it, will be liable to assessment to pay for the improvement, and referring him to the newspaper and issues thereof in which the resolution is or will be published for further particulars; or

2. In lieu of mailing the postal card, by mailing to each of the listed owners a copy of the newspaper publication, which mailing shall not be less than ten (10) days before the first hearing.

If several tracts appear to be owned by the same person, all may be included in the same notification.

C. Proof of the notification given shall be made by affidavit of the clerk and filed in his office. However, the failure of any one or more listed owners to receive the notification shall not invalidate any of the proceedings hereunder.
Laws 1977, c. 256, § 37-212, eff. July 1, 1978.

§11-37-213. Protests - Hearing - Findings as conclusive and binding.

Protests shall be heard and considered at the next regular meeting of the governing body following the expiration of the fifteen-day period after the last publication of the resolution of necessity. The hearing may be continued from time to time. The finding of the governing body as to the sufficiency or insufficiency of the protest or petition shall be conclusive and binding for all purposes and against all persons. The governing body shall have the power to hear any protest or petition and compel the attendance of witnesses under oath to determine the sufficiency thereof. If sufficient protests are filed as to any one or more noncontiguous areas, the same shall be eliminated from the proceedings, but the

other areas shall not be affected thereby. No action or suit to question the findings of the governing body on the sufficiency of the protests or petition shall be commenced later than fifteen (15) days after the finding.
Laws 1977, c. 256, § 37-213, eff. July 1, 1978.

§11-37-214. Rules regarding protests - Sufficiency.

In determining the sufficiency of any protest or petition as provided in Section 37-213 of this title, the governing body shall be guided by these rules:

1. Each paper containing signatures shall have attached thereto the affidavit of an owner of property to be assessed, or his agent, stating that each signature was affixed in his presence and is the signer's genuine signature;

2. The protest or petition shall be counted only for the property described as belonging to the signer;

3. The signature of one co-owner shall be counted only to the extent of the signer's interest in the property, but the signature of one joint tenant will protest or petition the entire interest;

4. A protest or petition signed by a guardian, executor, administrator or trustee shall be valid without an order of court therefor; and

5. A protest or petition is valid if signed by a person who has an equitable title, including a recorded contract of purchase.
Laws 1977, c. 256, § 37-214, eff. July 1, 1978.

§11-37-215. Right of property owner to institute action in district court.

Any property owner shall have the right to institute an action in the district court in the county in which the situs of the municipal government is located at any time not later than fifteen (15) days after the action of the municipal governing body in adopting and approving the plans, profiles, specifications, estimates and assessment plat, to contest such action. Any suit instituted after the expiration of the fifteen (15) days shall not be maintained to question the plans, profiles, specifications, estimates or assessment plat, and the property owners liable for assessment shall be deemed to have waived all objections thereto.
Laws 1977, c. 256, § 37-215, eff. July 1, 1978.

§11-37-216. Resolution ordering improvement - Detailed plans, etc. - Contractor's bonds.

A. After the expiration of the time for filing protests against the proposed improvement, or if insufficient protests have been filed, the municipal governing body shall adopt a resolution declaring that no protests have been filed, or if protests have been filed, that the protests were insufficient, and expressing the

determination of the governing body to proceed with the improvement. The resolution shall require the engineer to forthwith submit and file detailed plans, profiles, specifications and estimates of probable cost.

B. After the engineer has filed the detailed plans and estimates, the governing body shall examine them and, if found satisfactory, shall adopt and approve them by resolution, and order the improvement to be done. The resolution ordering the improvement shall:

1. State that the improvement will be constructed in accordance with the final detailed plans, specifications and profiles of the engineer;

2. Set forth any reasonable terms and conditions that the governing body shall deem proper to impose with reference to the letting of the contract and the provisions thereof;

3. Require the contractor to execute to the municipality a good and sufficient bond, in the amount stated in the resolution, conditioned for the full and faithful execution of the work and the performance of the contract for the protection of the municipality and all property owners interested, against any loss or damage by reason of the negligence of the contractor, or improper execution of the work, or for the use of inferior material;

4. Require the contractor to execute a bond, in the amount stated in the resolution, for the maintenance of the improvements against any failure due to defective workmanship or materials for a period of not less than one (1) year from the time of its completion and acceptance;

5. Require the execution of a good and sufficient bond to the State of Oklahoma for the payment of all labor and material used in the construction of the improvement in the full amount of the contract price therefor; and

6. Direct the municipal clerk, after the filing of the final plans, profiles, specifications and estimates, to advertise for sealed proposals for furnishing the materials and performing the work necessary in making the improvement.

Laws 1977, c. 256, § 37-216, eff. July 1, 1978.

§11-37-217. Advertisement and notice for proposals - Filing date for suits and actions.

A. The notice of the municipality's advertisement for proposals shall set forth:

1. The boundaries of the area to be improved, referring to the assessment plat on file;

2. The kind of improvements proposed;

3. What bonds will be required to be executed by the contractor, as specified in the resolution ordering the improvement; 4. A reference to the plans and specifications;

5. The time and the place for filing sealed proposals; and

6. The time and place that the governing body will consider the proposals.

The notice shall be published in ten (10) consecutive issues of a daily newspaper, or two (2) consecutive issues of a weekly newspaper, which is of general circulation in the municipality.

B. No action or suit to question the adoption of the resolution ordering the improvement, or its sufficiency, or the final, detailed estimates of the engineer, shall be commenced later than fifteen (15) days after the first publication of the notice for proposals.

Laws 1977, c. 256, § 37-217, eff. July 1, 1978.

§11-37-218. Awarding of contract - Aggregate cost.

At the time and place named in the notice for proposals to contractors, the municipal governing body shall examine all bids received. Without unnecessary delay, the governing body shall award the contract to the lowest and best bidder. Contractors' bids shall not be held valid longer than forty-five (45) days after the deadline for filing the proposals with the municipality. The aggregate amount of the contract shall not exceed the aggregate estimate of cost submitted by the engineer. The governing body shall have the right to award a contract for all or a portion of the improvement or to reject any or all bids, and to readvertise for other bids when any bids are not, in its judgment, satisfactory. The letting of the contract shall not be complete until the contract is duly executed and the bonds approved.

Laws 1977, c. 256, § 37-218, eff. July 1, 1978.

§11-37-219. Final statement of cost - Preparing assessment roll.

A. After the completion of the work and after the cost of the same has been ascertained, the engineer shall prepare and file with the municipal clerk a final, complete and accurate statement of the cost of the entire improvement, including engineering, advertising, legal, right-of-way, easements and other expenses incurred by the municipality incident to the improvement, together with any and all additions to the contract price of the improvements. The governing body shall adopt and confirm the final statement of cost, if found to be correct.

B. The engineer or municipal clerk shall thereupon prepare and file an assessment roll, which shall contain among other things:

1. The names of the last-known owners of the property to be assessed, as shown by the current year's tax rolls in the county treasurer's office, or as shown by certificate of a bonded abstractor; or in case the name of the owner is not known, a statement to that effect;

2. A description of each tract or parcel of land to be assessed; and

3. The amount of the assessment of each tract or parcel of land. The amount assessed to each tract or parcel of land shall be on an area basis, in proportion to the area of the whole district, exclusive of public highways. All property within two hundred (200) feet of the improvements shall be deemed to be abutting thereon for the purposes of protest and assessment, to the extent that such property is within the limits of the assessment plat. If a fractional part of a lot, parcel, or tract of land is within an assessment area, the benefit shall be computed for the fractional part, but the entire lot, parcel or tract of land under the same ownership of which the fractional part is a part shall be subject to assessment for the benefit.
Laws 1977, c. 256, § 37-219, eff. July 1, 1978.

§11-37-220. Hearing of objections on assessments - Time of hearing - Notice.

When the assessment roll is filed, the governing body shall set a time for holding a hearing on any complaints or objections that may be made concerning the apportionment as to any of the lots. Notice of the hearing shall be published in five (5) consecutive issues of a daily newspaper, or two (2) consecutive issues of a weekly newspaper, which is of general circulation in the municipality. The date fixed for the hearing shall be not less than five (5) nor more than thirty (30) days from the date of the last publication. Not less than ten (10) days before the hearing, the municipal clerk shall also notify each listed owner or property chargeable with the cost of the improvement by mail to his address, as shown by the current year's tax rolls in the county treasurer's office, or as shown by certificate of a bonded abstractor. The notice shall state:

1. That the assessment roll is on file in the municipal clerk's office;

2. The date the assessment roll was filed; and

3. The time and place that the governing body will hear and consider any objections.
Laws 1977, c. 256, § 37-220, eff. July 1, 1978.

§11-37-221. Correction and confirmation of apportionment.

Any owner of real estate proposed to be assessed may, at or prior to the hearing on the apportionment, file his objections in writing against the validity of the assessment roll and proposed assessment, setting forth the nature thereof, and shall have full opportunity to be heard. The governing body shall make such adjustments as may be just and proper. Any and all objections to the amount and validity of the assessments shall be deemed waived unless presented at the time and in the manner herein specified. At the hearing on the apportionment, or any adjournment thereof, the municipal governing body may review and correct the apportionment and raise or lower the

same as to any lots or tracts of land, as it shall deem just. The governing body by resolution shall confirm the apportionment and assessment as so revised and corrected by it. The determination by the governing body of the existence and extent of special benefit to each tract or parcel of land in the district is hereby declared to be legislative in nature, and shall be conclusive upon the property owners and upon the courts.
Laws 1977, c. 256, § 37-221, eff. July 1, 1978.

§11-37-222. Assessing ordinance - Interest on installments - Liens.

Assessments in conformity with the appraisement and apportionment, as corrected and confirmed by the governing body, shall be payable in ten equal annual installments, and shall bear interest not to exceed the rate of thirteen percent (13%) per annum until paid, payable in each year at such time as the several installments are made payable. The governing body, by ordinance and by referring to the assessment roll as confirmed, shall levy assessments in accordance with the assessment roll and apportionment, as confirmed, against the several lots and tracts of land liable therefor. The ordinance shall provide that the owners of the property so assessed shall have the privilege of paying the amounts of their respective assessments without interest within thirty (30) days after the date of the publication of the assessing ordinance. The special assessments, and each installment thereof and the interest and penalties thereon, are hereby declared to be a lien against the lots and tracts of land as assessed from the date of the publication of the ordinance levying the same, coequal with the lien of other taxes and prior and superior to all other liens against such lots or tracts of land. The liens shall continue as to unpaid installments, interest and penalties until the assessments, interest and penalties thereon shall be fully paid, but unmatured installments shall not be deemed to be within the terms of any general convenant or warranty.
Amended by Laws 1982, c. 9, § 3, emerg. eff. March 15, 1982.

§11-37-223. Treatment of property owned by municipality, counties or schools.

Any property which is owned by the municipality, or county, or any board of education or school district, shall be treated and considered the same as the property of other owners. The municipality, county, school district or board of education within the district to be assessed shall annually provide, by the levy of taxes in a sufficient sum, for payment of the maturing installments of assessments and interest and penalty thereon. In municipalities containing a population of less than two thousand five hundred (2,500), according to the latest federal census, the municipality may, with the consent of the school board, provide for the payment of

such assessments, or the construction and installment of sewer and water improvements, with funds derived from the issuance of building bonds or receipts of a building tax levy of a school district served by such improvement.
Laws 1977, c. 256, § 37-223, eff. July 1, 1978.

§11-37-224. Assessment record.

As soon as the assessing ordinance is adopted, the municipal clerk shall prepare a book which shall be known as the Assessment Record, in which he shall enter:

1. The names of each person owning the land to be assessed, as ascertained from the records of the county; or in case the name of the owner is not known, a statement to that effect;

2. A description of the lot, tract or subdivision;

3. A blank space for entering the amount of the assessment; and

4. A suitable column for entering the payments which may be made from time to time on account of the assessment.
Laws 1977, c. 256, § 37-224, eff. July 1, 1978.

§11-37-225. Due date of first installment - Payment of assessments - Interest on delinquent installments.

A. The first installment of the assessment, together with interest upon the whole assessment from the date of the passage of the assessing ordinance to the first day of the next September, shall be due and payable in cash on or before the first day of September next succeeding the passage of the assessing ordinance. If the assessing ordinance is not passed prior to the first day of July in any year, the first installment of the assessment shall be due and payable in cash with interest from the date of the passage of the assessing ordinance to the first day of September of the following year.

B. The assessments shall be payable as the several installments become due, together with the interest thereon, to the municipal clerk, who shall give proper receipts for the payments, and credit the payments upon the Assessment Record. In case any installment or interest is not paid when due, the installment so matured and unpaid and the unpaid interest thereon shall draw interest at the rate of twelve percent (12%) per annum from maturity until paid, except as otherwise provided.
Laws 1977, c. 256, § 37-225, eff. July 1, 1978.

§11-37-226. Collection of payments - Bond of clerk - Special fund.

The municipal clerk shall be required to execute a good and sufficient bond, with sureties, and in an amount to be approved by the governing body, payable to the municipality, conditioned for the faithful performance of the duties conferred upon him as collector of the assessments. The municipal clerk shall keep an accurate account

of all assessment collections made by him, and shall pay to the municipal treasurer daily the amounts of the assessments collected by him. The amounts so collected and paid to the municipal treasurer shall constitute a separate, special fund to be used and applied to the payment of bonds and the interest coupons which are issued against the assessments. After the payment of all bonds and interest thereon, any surplus remaining in the fund shall be paid to the general fund.
Laws 1977, c. 256, § 37-226, eff. July 1, 1978.

§11-37-227. Delinquent installments - Certification to county treasurer - Collection of taxes and penalties.

The municipal clerk, promptly after the date of maturity of any installment and interest and no earlier than the first day of July and no later than the tenth day of July in each year, shall certify the installment and interest then due to the county treasurer of the county in which the assessed property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection the county treasurer shall collect a fee of Five Dollars ($5.00) for each parcel of property and such fee shall be deposited to the general fund of the county. The county treasurer shall place the installment and interest upon the November delinquent tax list of the same year which is prepared by the county treasurer, and collect the installment and interest as other delinquent taxes are collected. Provided, that no such certification shall be made to the county treasurer unless the city or town clerk shall have sent notice of the nature and amount of the assessment by restricted delivery mail on or before June 1 of said year to the last-known address of the owner of the assessed property. The county treasurer shall collect the installments of assessment, together with interest and penalty, as certified to him by the municipal clerk, but any taxpayer shall have a right to pay his ad valorem taxes to the county treasurer regardless of the delinquency of such assessments. Within thirty (30) days from the receipt of a delinquent assessment, interest and penalty, as collected by the county treasurer, the same shall be paid by the county treasurer to the municipal treasurer for disbursement in accordance with the provisions of Section 37-226 of this title. All payments to the municipal treasurer on account of such assessments shall be certified by him to the municipal clerk for crediting on the Assessment Record.
Added by Laws 1977, c. 256, § 37-227, eff. July 1, 1978. Amended by Laws 1978, c. 196, § 4, eff. July 1, 1978; Laws 2000, c. 82, § 5, eff. Nov. 1, 2000.

§11-37-228. Acceptance of work after completion in accordance with plans.

Upon the completion of the improvement, the governing body shall determine whether or not the work has been completed in accordance with the plans, specifications and contract therefor. If the governing body finds the work to be in compliance, it shall accept the same. When the work is so accepted, the action shall be conclusively binding upon all persons interested and upon the court. Laws 1977, c. 256, § 37-228, eff. July 1, 1978.

§11-37-229. Issuance of negotiable coupon books.

The municipal governing body may, after the expiration of thirty (30) days from the publication of the assessing ordinance, within which period the whole of any assessment may be paid without interest, provide by resolution for the issuance of bonds. The bonds shall be in the aggregate amount of the assessments then remaining unpaid, bearing date of thirty (30) days after the publication of the assessing ordinance, and be of such denominations as the governing body and the contractor shall determine. The bonds shall in no event become a liability of the municipality issuing the bonds. The bonds shall be payable on or before the first of October next succeeding the September 1 on which the last installment of assessments shall mature. The interest on the bonds shall be at the rate of not to exceed twelve percent (12%) per annum, payable October 1 following the due date of the first installment of assessments, and semiannually thereafter, until maturity, and fifteen percent (15%) per annum after maturity. The bonds shall be designated as Improvement Bonds and shall:

1. Recite the areas for the improvement of which they have been issued;

2. State that they are payable, in cash, from the assessments which have been levied upon the lots and tracts of land benefited by the improvement and from the accumulation of the interest and penalty on the assessments;

3. Designate the place, either within or without Oklahoma, where the bonds and interest shall be payable;

4. Be signed by the mayor and attested by the municipal clerk; and

5. Contain an impression of the corporate seal of the municipality thereon.

Facsimile seals and signatures of the mayor and municipal clerk may be used as provided in the Registered Public Obligations Act of Oklahoma. The bonds shall be issued in series, and the bonds of each series shall be numbered consecutively beginning with number One. The bonds of each series shall be payable, in cash, in their numerical order.

Amended by Laws 1982, c. 9, § 4, emerg. eff. March 15, 1982; Laws 1983, c. 170, § 19, eff. July 1, 1983.

§11-37-230. Registration of bonds.

The Improvement Bonds shall be registered by the clerk of the municipality in a book to be provided for that purpose, and each bond shall bear a certificate of such registration. Upon the books of the treasurer shall be noted the name of the holder of each bond and his address. Any subsequent holder may cause the same to be registered in the name of the holder upon submission of proper proof of ownership. Nothing herein shall prevent the appointment of a registrar, transfer, authenticating, paying or other agent as provided in the Registered Public Obligations Act of Oklahoma for purposes of performing the functions required herein.
Amended by Laws 1983, c. 170, § 21, eff. July 1, 1983.

§11-37-231. Bond payment and cancellation.

The municipality shall have the right to call and pay in numerical order the bonds or any number thereof in the following manner: Whenever there shall be sufficient funds in the hands of the municipal treasurer after the payment of all interest due and to become due within the next six (6) months, the treasurer, on or before March 10 and September 10 of any year, shall give notice by certified mail addressed to the last-registered holder of the bonds called, at the address appearing upon the registry, that there has accumulated funds sufficient to pay the designated bonds, and interest thereon to April 1 next or October 1 next, as the case may be, and directing the presentation of the bond or bonds for payment and cancellation. The bond or bonds which are called will cease to bear interest after April 1 or October 1, as provided in the notice. Upon the payment and cancellation of the bond or bonds, proper entry thereof shall be made upon the books of the clerk and treasurer or appointed agent. Upon the accumulation of sufficient funds as herein provided, the municipal treasurer shall pay the bonds so called and, in the event of failure to do so, he shall be liable for all such damages as may result therefrom. The provisions of this section may be enforced by appropriate proceedings in mandamus against the treasurer.
Amended by Laws 1983, c. 170, § 20, eff. July 1, 1983.

§11-37-232. Delivery of bonds to contractor.

The cash prepayments and the bonds in the amount that may be necessary for the purpose shall be turned over and delivered to the contractor or assigns at par and accrued interest in payment of the amount due in accordance with the terms of the contract, provided that the contractor has paid to the municipal clerk all advertising, engineering, appraising, right-of-way and easements and other costs, including consulting attorneys fees and special attorney and audit fees.
Laws 1977, c. 256, § 37-232, eff. July 1, 1978.

§11-37-233. Right of action of bondholder.

Any holder of any improvement bond issued hereunder shall have the right to institute, in the name of the municipality issuing the bond, an action in the district court in the county in which the property is located to foreclose the lien of the assessments whenever the assessments, or any installment thereof, are delinquent for a period of at least six (6) months. The petition for foreclosure shall generally:

1. State the ownership of the bond;
2. Describe the property assessed;
3. Describe the nature of the improvement;
4. Set forth the amount of the unpaid delinquent assessment or installment and penalty thereon at the rate of twelve percent (12%) per annum; and
5. Pray for the foreclosure of the lien.

Summons shall be issued on the petition as in other civil actions and the cause tried by the district court. Judgment may be entered on the petition for the amount of the unpaid assessment, or installment, together with interest thereon at the rate of twelve percent (12%) per annum from the date the assessment or installment was due and payable up to the date of the filing of the petition, and for the sum of six percent (6%) interest on the judgment computed from the time of filing the petition until the judgment is paid, together with reasonable attorneys fees. If the judgment, together with interest, costs and attorneys fees, is not paid within six (6) months after the date of the rendition thereof, an order of sale shall issue by the clerk of the court, directed to the sheriff of the county, to sell the real estate in the manner and form as for sale of real estate under execution. Upon the payment of the judgment, the amount thereof exclusive of costs and attorneys fees shall be paid to the municipal treasurer for deposit in the separate, special fund to pay outstanding bonds and interest thereon. The judgment shall provide for the sale of the real estate subject to existing general ad valorem taxes. All owners or encumbrancers shall be made parties defendant in the suit. Upon the institution of an action to collect delinquent and unpaid assessments in any improvement district against property liable therefor, no other or further action shall be instituted and maintained to collect such delinquent assessment against the property for that year.

Laws 1977, c. 256, § 37-233, eff. July 1, 1978.

§11-37-234. Limitation on suits to set aside assessments or issuance of bonds.

No suit shall be sustained to set aside any assessment, nor to contest the area of assessment, nor to enjoin the municipal governing body from levying or collecting any such assessment, or installment

thereof, or interest or penalty thereon, or issuing the bonds, or providing for their payment, or contesting the validity thereof on any ground, unless such suit shall be commenced not more than fifteen (15) days after the publication of the ordinance levying assessments. After the fifteen-day period has expired, or after the work has been completed and accepted by the municipality, a suit may be brought only for the failure to adopt and publish the resolution declaring the necessity for the improvement, as provided in Sections 37-211 and 37-212 of this title, or for the failure to give notice of the hearing interest or penalty thereon, or issuing the bonds, or providing for their payment, or contesting the validity thereof on any ground, unless such suit shall be commenced not more than fifteen (15) days after the publication of the ordinance levying assessments. After the fifteen-day period has expired, or after the work has been completed and accepted by the municipality, a suit may be brought only for the failure to adopt and publish the resolution declaring the necessity for the improvement, as provided in Sections 37-211 and 37-212 of this title, or for the failure to give notice of the hearing on the assessment roll, as provided in Section 37-220 of this title. In the event any special assessment shall be found to be invalid or insufficient, in whole or in part, for any reason whatever, the governing body at any time, in the manner provided for levying an original assessment, may proceed to cause a new assessment to be made and levied which shall have like force and effect as an original assessment.
Laws 1977, c. 256, § 37-234, eff. July 1, 1978.

§11-38-101. Definitions and applicability.

The provisions of this article shall apply to all municipalities in this state except as otherwise provided. The following terms whenever used or referred to in Sections 38-101 through 38-119 of this title shall have the following meanings, unless a different meaning is clearly indicated by the context:

1. "Authority" or "Urban Renewal Authority" shall mean a public body corporate created by Section 38-107 of this title;

2. "Public body" shall mean the state or any incorporated city, town, board, commission, authority, district, or any subdivision or public body of the state;

3. "Municipality" shall mean any incorporated city or town;

4. "Municipal governing body" shall mean the council, board of trustees, or other body duly charged with governing a municipality;

5. "Mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality;

6. "Clerk" shall mean the clerk or other official of a municipality who is the custodian of the official records of the municipality;

7. "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America;

8. "Blighted area" shall mean an area in which there are properties, buildings, or improvements, whether occupied or vacant, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces; improper subdivision or obsolete platting of land; deterioration or demolition of structures without repair, replacement or reinvestment; improper street layout in terms of existing or projected traffic needs, traffic congestion or lack of parking or terminal facilities needed for existing or proposed land uses in the area, predominance of defective or inadequate street layouts; faulty lot layout in relation to size, adequacy, accessibility or usefulness; insanitary or unsafe conditions, deterioration of site or other improvements; diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title including, but not limited to, highly fragmented interests; any one or combination of such conditions which the municipal governing body determines substantially impairs or arrests the sound growth of the municipality and constitutes a substantial liability, or which endangers life or property by fire or other causes, or is conducive to ill health, transmission of disease, mortality, juvenile delinquency, or crime and by reason thereof, is detrimental to the public health, safety, morals or welfare;

9. "Urban renewal project" or "redevelopment project" may include undertakings and activities of a municipality, an urban renewal authority, redevelopment corporation, person or other corporation, in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings may include:

a. acquisition of a blighted area or portions thereof,

b. demolition and removal of buildings and improvements,

c. installation, construction or reconstruction of streets, off-street parking facilities, utilities, parks, playgrounds, and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this article in accordance with the urban renewal plan,

d. disposition of any property for uses in the urban renewal area or the leasing or retention of such property for uses in accordance with the urban renewal plan,

e. carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan, or

f. acquisition of any other real property in the area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;

10. "Urban renewal area" means a blighted area within which the governing body of a municipality designates an area appropriate for an urban renewal project;

11. "Urban renewal plan" means a plan officially adopted by the municipal governing body, as it exists or is changed from time to time, for an urban renewal project, which plan shall:

a. conform to the general plan for the municipality as a whole except as provided in subsection K of Section 38-106 of this title, and

b. be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and plans for financing the project, and plans for the relocation of families and businesses to be displaced;

12. "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise;

13. "Notes" shall mean any notes (including refunding notes), interim certificates of indebtedness, debentures or other obligations;

14. "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the Urban Renewal Authority or the municipality;

15. "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity;

16. "Area of operation" shall mean the area within the corporate limits of the municipality;

17. "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the municipality;

18. "Public officer" shall mean any officer who is in charge of any department or branch of the government of a municipality relating to health, fire, building regulations, or to other activities concerning dwellings in its area of operation; and

19. "Redevelopment corporation" shall mean a corporation organized under the provisions of Section 38-117 of this title. Added by Laws 1977, c. 256, § 38-101, eff. July 1, 1978. Amended by Laws 2015, c. 108, § 1, eff. Nov. 1, 2015.

§11-38-102. Declarations and findings.

It is hereby found and declared that there exists in certain municipalities blighted areas as herein defined which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of said municipalities; that the existence of such areas contributes an economic and social liability imposing onerous burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests sound urban growth, retards sound economic development, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of blight is a matter of state policy and state concern; that the state and such municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenue because of extra services required for police, fire, accident, hospitalization and other forms of public protection, services and facilities; that by such prevention and elimination, property values will be stabilized and tax burdens more equitably distributed, and the financial and capital resources of the state will be strengthened; that this menace can best be remedied by cooperative participation of private enterprise, municipal governing bodies and public agencies.

It is further found and declared that certain blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this article, since the prevailing conditions of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; that the salvable blighted areas can be conserved and

rehabilitated through appropriate public action as herein authorized, and the cooperation and voluntary action of the owners and tenants of property in such area.

It is further found and declared that the powers conferred by this article are for public uses and purposes for which public money may be expended and the power of eminent domain and police power exercised; and it is hereby declared that it is a matter of legislative determination that the provisions of this article are enacted in the public interest.

Laws 1977, c. 256, § 38-102, eff. July 1, 1978.

§11-38-103. Workable program for utilization of private and public resources.

A municipality for the purpose of this article shall formulate for its area of operation a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of blight, to encourage needed rehabilitation, to provide for the redevelopment of blighted areas, or to undertake any of these activities or other feasible public activities as may be suitably employed to achieve the objectives of the workable program. The workable program may include, without limitation, provision for: the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of blighted areas or portions thereof.

Laws 1977, c. 256, § 38-103, eff. July 1, 1978.

§11-38-104. Maximum rehabilitation and redevelopment by private enterprise - Public housing facilities.

The Urban Renewal Authority and any municipality, to the greatest extent determined to be feasible in carrying out the provisions of this article, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. The Urban Renewal Authority and the municipality shall give consideration to this objective in exercising their powers under this article, including the formulation of a workable program, the approval of urban renewal plans (consistent with the general plan of the municipality), and the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public

improvements. Nothing herein shall be construed to authorize any municipality or Urban Renewal Authority to construct or operate public housing facilities.
Laws 1977, c. 256, § 38-104, eff. July 1, 1978.

§11-38-105. Authorization by resolution of governing body.

A. No Urban Renewal Authority created by this article shall exercise the authority or powers granted by this article until after the municipal governing body shall have determined by resolution that such action is in the public interest and elects to have the authority or powers exercised by the Urban Renewal Authority if one exists or is subsequently established.

B. No municipality shall exercise the authority granted by this article until after the municipal governing body shall have adopted a resolution finding that:

1. One or more blighted areas exist in its area of operation; and

2. The rehabilitation, conservation or redevelopment, or a combination thereof, of the area or areas is necessary in the interest of the public health, safety, morals and welfare of the residents of the area.

Added by Laws 1977, c. 256, § 38-105, eff. July 1, 1978. Amended by Laws 1994, c. 206, § 2, emerg. eff. May 20, 1994; Laws 2004, c. 42, § 1, eff. Nov. 1, 2004.

§11-38-106. Urban renewal plan - Public hearings - Approval and modification - Disaster areas.

A. The Urban Renewal Authority may itself prepare or cause to be prepared an urban renewal plan or any person or agency, public or private, may prepare and submit such a plan to the municipality. Prior to the approval of an urban renewal plan by the municipal governing body, the plan shall be submitted to the planning commission having official planning jurisdiction in the municipality and such planning commission shall determine if such plan conforms with the general plan for its area of operation and the municipality, and the planning commission shall submit its written recommendations to the municipality with respect thereto within sixty (60) days after receipt of the plan.

B. A municipal governing body shall not approve an urban renewal plan for an urban renewal area unless such governing body, by resolution, has determined such area to be a blighted area and designated such area or portion thereof, as appropriate for an urban renewal project. The municipal governing body shall not approve an urban renewal plan or project until a general plan for the municipality has been adopted as the long-range development policy, and such urban renewal plan shall adhere thereto; provided, however, that such general plan must have designated and delineated urban

renewal areas, established the appropriate reuse of such areas and established priorities for the rehabilitation or clearance and redevelopment of such areas. The Urban Renewal Authority or a municipality shall not acquire real property for an urban renewal project unless the municipal governing body has approved the urban renewal plan in accordance with subsection D of this section.

C. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within the sixty-day period, then without such recommendations, the municipal governing body may proceed with the hearing on the proposed urban renewal project as prescribed by subsection D of this section.

D. Before adoption of an urban renewal plan or subsequent significant amendments to an urban renewal plan, as determined pursuant to subsection H of this section, the municipal governing body shall hold two public hearings after public notice thereof by posting not less than five public notice signs, each having at least nine (9) square feet of display area, for a period of fourteen (14) successive days including the days of the public hearings for which notice is being given, in the area affected by the proposed urban renewal plan, and shall outline the general nature and scope of the urban renewal project under consideration. The primary purpose of the first hearing will be to provide information and to answer questions. A representative of the municipal governing body shall present the proposed urban renewal plan. The date of the second public hearing shall be announced in the presence of persons in attendance at the hearing and the date shall be more than seven (7) successive days after the date of the first public hearing. The purpose of the second public hearing shall be to give any interested persons the opportunity to express their views on the proposed or amended urban renewal plan.

E. Notice of the first public hearing shall be given by publication at least one time not less than fourteen (14) successive days prior to the date of the public hearing in a newspaper with general circulation in the area of operation of the municipality. Additionally, a municipal governing body that maintains an Internet website shall make notices prepared pursuant to this section regularly available on the website for a period of not less than fourteen (14) successive days prior to the date of the public hearing. The notices shall include the following:

1. The time and place of the public hearing;

2. The boundaries of the proposed urban renewal area by legal description and by street location, if possible, accompanied by a sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included;

3. A statement that the first public hearing shall be for information and question purposes only with persons being given the

opportunity to be heard at the second public hearing before any votes are taken;

4. A description of the activities to be authorized by the proposed urban renewal plan, and a location and time where the proposed urban renewal plan may be reviewed by any interested party; and

5. Such other matters as the municipal governing body may deem appropriate.

F. Notice of the second public hearing may be included in the publication notice provided for in subsection E of this section. Notice of the second public hearing shall be published in the same manner as the notice provided for in subsection E of this section if:

1. Notice for both public hearings is not included in the notice of the first public hearing;

2. The location, date or time of the second public hearing is changed after the notice of the first public hearing has been published; or

3. The second public hearing is held more than fourteen (14) successive days after the first public hearing.

G. Following such hearings, the municipal governing body may approve an urban renewal plan if it finds that:

1. A feasible method exists for the relocation of families and businesses who will be displaced from the urban renewal area in decent, safe and sanitary accommodations within their means and without undue hardship to such families and businesses;

2. The urban renewal plan conforms to and assists in the execution of the general plan of the municipality as a whole; provided, however, if the planning commission fails to make such a determination within the prescribed sixty (60) days, or makes a determination to the contrary, not less than four-fifths (4/5) majority vote of the municipal governing body shall be required to make this finding;

3. The plan includes feasible methods for financing the project; and

4. The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

H. An urban renewal plan may be modified at any time in accordance with the following procedure:

1. The Urban Renewal Authority determines the proposed modification to be desirable; and

2. The planning commission determines that the proposed modification conforms to the general plan for the municipality and makes its recommendations pursuant to the modification or not as it may determine.

Public hearings required for the adoption of an urban renewal plan in the first instance shall be held if the governing body determines the modification to be a significant deviation from the existing urban renewal plan, in which case approval of the modification shall be in the same manner as prescribed by this article for adoption of any urban renewal plan. If the governing body determines the modification not to be a significant deviation or to be merely technical or for clarification purposes, the governing body may act without such public hearings.

I. If modification of the plan is proposed after the lease or sale by the Urban Renewal Authority of real property in the urban renewal project area, such modification may be conditioned upon the approval of the owner, lessee or successor in interest as the authority may deem advisable and in any event shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert.

J. Upon the approval by the municipal governing body of an urban renewal plan or of any modification thereof, such plan or modification shall be deemed to be in full force and effect for the respective urban renewal area and the Urban Renewal Authority may then cause such plan or modification to be carried out in accordance with its terms.

K. Notwithstanding any other provisions of this article, where the municipal governing body determines that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, wind, earthquake, storm or other catastrophe respecting which the Governor of the state has certified the need for disaster assistance under Public Law 875, Eighty-first Congress (42 U.S.C. Sections 1855 - 1855g), or other federal laws, the municipal governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection G of this section and the provisions of this section requiring a general plan for the municipality and a public hearing on the urban renewal project.

Added by Laws 1977, c. 256, § 38-106, eff. July 1, 1978. Amended by Laws 2015, c. 108, § 2, eff. Nov. 1, 2015.

§11-38-107. Urban Renewal Authority.

A. There is hereby created in each municipality to which this article is applicable, a public body corporate to be known as the "Urban Renewal Authority", or such other name as may be designated by the governing body of the municipality, which may sue or be sued; provided, that such Authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the municipality has made the finding prescribed in Section 38-105 of this title.

B. When the Urban Renewal Authority is authorized to transact business and exercise powers hereunder, the mayor, subject to the approval of the municipal governing body, shall appoint a Board of Commissioners consisting of five (5) members. The term of office of each such Commission member shall be for three (3) years, except that of the members first appointed, one shall serve for a term of one (1) year and two shall serve for terms of two (2) years. The initial appointments, regardless of the calendar date when such appointments are made, shall expire on the July 31 closest to the full one, two or three-year term to which such members are appointed. Thereafter, and after the expiration of initial terms, all members shall serve terms of three (3) years. All terms of office, including initial appointments, shall expire as of July 31 and new terms shall commence on August 1 of the calendar year.

C. The mayor of the municipality shall designate from the duly appointed Commission members, a Chairman and Vice Chairman who shall serve terms of one (1) year, beginning August 1 of each calendar year, or until a successor is named. Should the mayor fail to designate a Chairman or Vice Chairman within thirty (30) days after the separation date of the former Chairman, the Commission may elect a Chairman or Vice Chairman from its membership by a simple majority vote of its members. The Chairman, and in his absence the Vice Chairman, shall call and preside over meetings of the Board of Commissioners, direct the recording of minutes of its deliberations, and appoint committees and assign their respective activities.

D. A Commissioner shall receive no compensation for his services but shall be entitled to necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each Commissioner shall hold office until his successor has been appointed and qualified. A certificate of the appointment or reappointment of any Commission member shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such Commission member. Commissioners shall not be personally liable for obligations of the Urban Renewal Authority.

E. The powers of an Urban Renewal Authority shall be exercised by the Commissioners thereof. A majority of the Commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the Authority and for all other purposes. Action may be taken by the Authority upon a vote of a majority of the Commissioners, unless in any case its bylaws shall require a larger number. Any person may be appointed as a Commissioner if he has resided for five (5) years within the municipality or an area annexed to the municipality and is otherwise eligible for such appointment under this article.

F. The Urban Renewal Authority may employ an executive director, technical experts and such other agents and employees, permanent and

temporary, as it may require, and determine their qualifications, duties and compensation. The Authority may receive legal services of the staff of the municipality or it may employ or retain its own legal counsel and legal staff and may contract for any services necessary to its operation under this article. An Authority authorized to transact business and exercise powers under this article shall file, with the mayor and the municipal governing body, on or before July 31 of each year, a report of its activities for the preceding fiscal year ending June 30, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of such fiscal year. At the time of filing the report, the Authority shall publish in a newspaper of general circulation in the area of operation, a notice to the effect that such report has been filed with the mayor and municipal governing body and that the report is available for inspection during business hours in the office of the clerk or other appropriate officer of the municipality and in the office of the Urban Renewal Authority.

G. A Commission member may be removed from office prior to the expiration of the term for which he was appointed only for inefficiency or neglect of duty or misconduct in office by a two-thirds majority vote of the municipal governing body after hearing based on charges which are written and a copy delivered to such Commission member at least ten (10) days before such hearing. A Commission member may represent himself at such hearing or be represented by counsel.

Amended by Laws 1986, c. 118, § 1, emerg. eff. April 9, 1986.

§11-38-108. Enumerated Authority powers - Powers and duties excluded.

A. Every Urban Renewal Authority within the provisions of this article shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

1. To undertake and carry out the urban renewal projects within its area of operation and in accordance with any urban renewal plan adopted by the municipality; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this article; and to disseminate blight and urban renewal information;

2. To provide or to arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, off-street parking facilities, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached

to Federal financial assistance and imposed pursuant to Federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a report, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

3. With the permission of the owner or occupant, to enter into any building or property in any urban renewal area within its area of operation in order to make inspections, surveys, appraisals, soundings or test borings; provided if permission be denied, to so enter for such purpose, upon reasonable notice and at reasonable times, with the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property, or personal property for its purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the Authority or the municipality against any risk or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this article; provided, however, that no statutory provisions with respect to the acquisition, clearance or disposition of property by public bodies shall restrict the Authority or municipality or other public body exercising powers hereunder, in the exercise of such functions with respect to an urban renewal project, unless the Legislature shall specifically so state;

4. To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks, building and loan associations or savings and loan associations may legally invest funds; to redeem such notes as have been issued pursuant to Section 38-115 of this title at the redemption price established therein or to purchase such notes at less than redemption price, all such notes so redeemed or purchased to be cancelled;

5. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county or other public body, or from any sources, public or private, for the purposes of this article, and to give such security as may be required and to enter into and carry out contracts in connection therewith. An Authority may include in any contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the Authority may deem reasonable and

appropriate and which are not inconsistent with the purposes of this article;

6. To make or have made, within its area of operation, surveys and plans necessary to the carrying out of urban renewal plans or projects, and to contract with any person, public or private, in making and carrying out such plans. Such plans may include: (a) urban renewal plans; (b) preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas; (c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements; (d) plans for the enforcement of state and local laws, codes and regulations relating to the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; or (e) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects;

7. To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight and to apply for, accept and utilize grants of funds from the Federal Government or any other source for such purposes;

8. To prepare plans for the relocation of persons, families, business concerns and others displaced by an urban renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payment financed by the Federal Government but not limited thereby;

9. To make such expenditures as may be necessary to carry out the purposes of this article;

10. To organize, coordinate and direct the administration of the provisions of this article as they apply to the municipality in order that the objective of remedying blighted areas and preventing the causes thereof within its area of operation may be most effectively promoted and achieved, and to establish such office or offices necessary to carry out such purposes most effectively; or

11. To exercise all or any part or combination of powers herein granted, provided that the records covering all transactions shall be open to public scrutiny and may be inspected by any person affected thereby during regular office hours and upon reasonable notice.

B. The duties, powers or authority of the Urban Renewal Authority shall not include:

1. The power to determine an area to be a blighted area and to designate such area as appropriate for an urban renewal project;

2. The power to prepare, establish, or amend a general plan for the locality as a whole;

3. The power to formulate a workable program;

4. The power to make the determinations and findings provided for in Section 38-105 and subsection E of Section 38-106 of this title;

5. The power to issue general obligation bonds;

6. The power to appropriate funds of the municipality, to levy taxes and assessments;

7. The power to zone or rezone; or

8. The power to make exceptions to zoning ordinances or building regulations of the municipality.

Laws 1977, c. 256, § 38-108, eff. July 1, 1978.

§11-38-109. Powers of municipalities or other public bodies.

A. For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project, a municipality or any other public body may:

1. Cause public buildings and public facilities to be furnished, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; or make exceptions from building regulations; and cause administrative and other services to be furnished;

2. Accept by gift or otherwise acquire, with or without consideration, title to real property in an urban renewal project area, hold such real property and enter into lease-purchase or other agreements respecting the operation, use, or disposal of such land, with a duly organized urban redevelopment corporation or Urban Renewal Authority. Such lease-purchase or other agreements shall contain such terms and conditions as may be deemed necessary and convenient to the execution of an urban renewal plan; or

3. Appropriate funds for urban renewal purposes.

B. If at any time title to or possession of any real property in an urban renewal project is held by any municipality or public body or governmental agency which is authorized by law to engage in the undertakings, carrying out, or administration of urban renewal projects (including any agency or instrumentality of the United States of America), the provisions of the agreements referred to in this section shall inure to the benefit thereof and may be enforced by such public body or governmental agency.

C. Any sale, conveyance, lease or lease-purchase agreement or agreement provided pursuant to this section may be made by a public body to any other public body without appraisal, public notice, advertisement or public bidding.

D. For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project hereunder, a municipality or an Urban Renewal Authority or any other public agency, board or body

may (in addition to its other powers and upon such terms, with or without consideration, as it may determine) do and perform any or all of the actions or things which such public agencies or public bodies are authorized to do or perform, including the furnishing of financial and other assistance.

E. For the purposes of this section, or for the purposes of aiding in the planning, undertaking or carrying out of an urban renewal project, such municipality may issue and sell its general obligation bonds. Any bonds issued by a municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by laws of this state for the issuance and authorization of bonds by such municipality for public purposes generally.
Laws 1977, c. 256, § 38-109, eff. July 1, 1978.

§11-38-110. Powers of redevelopment corporations or other private persons or corporations.

For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project, an urban redevelopment corporation or any other private person or corporation may, upon such terms and with or without consideration, as may be determined:

1. Dedicate, sell, convey, or lease any of its interest in any property or grant easements, licenses or other rights or privileges therein to an Urban Renewal Authority, or to a municipality or any other public body or governmental agency or to any private person or corporation;

2. Incur the entire expense, or any portion thereof, of any public improvements necessary to the execution of an urban renewal plan;

3. Do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan;

4. Lend, grant or contribute funds to an Urban Renewal Authority; or

5. Enter into agreements, including lease-purchase agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any municipality, public body or governmental agency including an Urban Renewal Authority, respecting action to be taken pursuant to any of the powers granted by this article, including the furnishing of funds, or other assistance in connection with an urban renewal project.
Laws 1977, c. 256, § 38-110, eff. July 1, 1978.

§11-38-111. Condemnation powers.

A. After the adoption by the municipal governing body of an urban renewal plan and a resolution declaring that the acquisition of real property described in the plan is necessary to the execution of the plan, the Urban Renewal Authority designated as the agency to execute such plan shall have the right to acquire by condemnation or

otherwise, any interest or right or combination of rights in real property, including a fee simple title thereto, necessary to the execution of the approved plan. Condemnation for the urban renewal of blighted areas is declared to be a public use, and property already devoted to any other public use or acquired by the owner or his predecessor in interest by eminent domain may be condemned for the purpose of this article. The award of compensation for real property taken for such a project shall not be increased by reason of any increase in the value of the real property caused by the assembling, clearance, reconstruction, or proposed assembly, clearance or reconstruction in the project area. No increment of value shall accrue to such property as the result of any illegal or unlawful use thereof. No allowance shall be made for the improvements begun on real property after notice to the owner of such property or the institution of proceedings to condemn such property. Evidence shall be admissible bearing upon the insanitary, unsafe, or substandard condition of the premises, or the lawful use thereof.

B. Except as otherwise provided by subsection C of this section, the Urban Renewal Authority shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this article.

C. If an Urban Renewal Authority intends to acquire unimproved real property pursuant to the power of condemnation authorized by this article, the Urban Renewal Authority shall specifically identify the parcels or tracts of real property which it intends to acquire through condemnation to the governing body of the municipality. The governing body of the municipality shall consider the proposed acquisition of the unimproved real property during an open meeting and shall be required to approve the proposed acquisition by a majority vote of those persons constituting the governing body of the municipality. No Urban Renewal Authority shall acquire unimproved real property by condemnation unless the acquisition has been specifically approved by the governing body of the municipality as required by this subsection. An acquisition by an Urban Renewal Authority of unimproved real property made without the approval of the municipal governing body shall be void and notwithstanding the completion of other proceedings an action may be maintained by a person with a legal or equitable interest in the subject real property to recover title to the real property or possession of the real property or both title and possession of the real property.

D. The procedure prescribed for railroad companies in Sections 51 et seq., of Title 66 of the Oklahoma Statutes, shall be followed in acquiring property by eminent domain. Property already devoted to public use may be acquired in like manner; provided, that no real property belonging to the state or any political subdivision thereof may be acquired without its consent.

E. In the event any Urban Renewal Authority in exercising any of the powers conferred by this article makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any railroad, common carrier or public utility property or facility, all such relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the Urban Renewal Authority, provided that the Urban Renewal Authority shall not disturb the possession or operation of any railroad, common carrier, or public utility in or to the appropriated property or facility until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the railroad, common carrier or public utility.

F. In any proceeding to fix or assess compensation for damages for the taking (or damaging) of property, or any interest therein, through the exercise of the power of eminent domain or condemnation, evidence or testimony bearing upon the following matters shall be admissible and shall be considered in fixing such compensation or damages, in addition to evidence or testimony otherwise admissible:

1. Any use, condition, occupancy, or operation of such property, which is unlawful or violative of, or subject to elimination, abatement, prohibition, or correction under, any law or any ordinance or regulatory measure of the state, county, municipality, other political subdivision, or any agency thereof, in which such property is located, as being unsafe, substandard, insanitary or otherwise contrary to the public health, safety, or welfare; and

2. The effect on the value of such property, or any such use, condition, occupancy, or operation, or of the elimination, abatement, prohibition, or correction of any such use, condition, occupancy, or operation.

G. The foregoing testimony and evidence shall be admissible notwithstanding that no action has been taken by any public body or public officer toward the occupancy or operation. Testimony or evidence that any public officer charged with the duty or authority to do so has rendered, made or issued any judgment, decree, determination or order for the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation shall be admissible and shall be prima facie evidence of the existence and character of such use, condition or operation.

H. In any condemnation proceedings in which a jury trial is had, if the verdict of the jury exceeds the award of the court appointed commissioners, the court may award a reasonable attorney fee to the defendant or defendants, which shall be paid by the condemner. Added by Laws 1977, c. 256, § 38-111, eff. July 1, 1978. Amended by Laws 1996, c. 36, § 1, eff. Nov. 1, 1996.

§11-38-112. Exemption of property from judicial process and taxation.

A. All property of an Urban Renewal Authority, including funds, owned or held by it for the purposes of this article shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against an Urban Renewal Authority be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this article by an Urban Renewal Authority on its rents, fees, grants or revenues from urban renewal projects.

B. The exercise of powers granted by this article will be in all respects for the benefit of the people of this state, and its political subdivisions, and the municipalities of this state, for the improvement of the public health, safety, morals and general welfare of the people. The activities of an Urban Renewal Authority pursuant to this article constitute an essential governmental function and the property or funds of an Urban Renewal Authority, acquired or held for the purposes of this article, are declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the state, the county, the municipality or any other political subdivision thereof; provided, that such tax exemption shall terminate when the Urban Renewal Authority sells such property in an urban renewal area to a purchaser who is not a public body entitled to tax exemption with respect to such property; or if such property is leased by the Urban Renewal Authority, then the improvements placed thereon shall not be entitled to such tax exemption. Provided, further, that the Urban Renewal Authority is limited in its authority to acquire property to the acquisition which is necessary in the carrying out of an urban renewal plan.

Laws 1977, c. 256, § 38-112, eff. July 1, 1978.

§11-38-113. Acquisition of property other than by means of eminent domain - Payment of taxes - Excess property.

Whenever the municipal governing body shall have determined by resolution that an area within the municipality is appropriate for an urban renewal project, then, regardless of whether or not an urban renewal plan for such area has been approved under the provisions of this article, the municipality or the Urban Renewal Authority within the municipality may acquire real property at any time within such area by means other than the exercise of the power of eminent domain. In order to qualify for financial assistance from the Federal Government in making such acquisition, and regardless of any other provisions of the laws of the State of Oklahoma, the municipal governing body may assume the responsibility to the Federal

Government to bear any loss that may arise as a result of such acquisition in the event the property so acquired is not used for urban renewal purposes because an urban renewal plan for the project area is not approved, or is amended to omit any of the acquired property, or is abandoned for any reason. It is further provided that in the event of an advance acquisition of any improved property as herein provided the Urban Renewal Authority or governing body, as the case may be, acquiring the property shall be responsible for and pay any accruing ad valorem taxes becoming due or owing until such time as the property is incorporated in an approved urban renewal plan or converted to another public use. Any property so acquired shall be subject to all other provisions of this article the same as property otherwise acquired, except that in the event the property so acquired is not used for urban renewal purposes because an urban renewal plan for the project area is not approved, or is amended to omit any of the acquired property, or is abandoned for any reason, the property may be disposed of under such reasonable competitive bidding procedures as the municipal governing body shall prescribe, or such property may be converted to any other public use.
Laws 1977, c. 256, § 38-113, eff. July 1, 1978.

§11-38-114. Sale or lease of real property - Obligations of purchasers or lessees - Owner participation agreements.

A. An Urban Renewal Authority may sell, lease or otherwise dispose of or transfer real property or any interest therein acquired by it at its fair value to a redevelopment corporation or any other private person or persons, and may enter into contracts with respect thereto, under reasonable negotiating procedures as may be prescribed by the municipal governing body, for residential, recreational, commercial, industrial or other uses or for public uses, or may retain such property for public use, in accordance with the urban renewal plan. The sale, lease or other disposition or transfer of real property or interest therein may be subject to such covenants, conditions, and restrictions, including covenants running with the land, as the Urban Renewal Authority may deem to be necessary or desirable to assist in preventing the development or spread of future blight or to otherwise carry out the purposes of this article; provided that such sale, lease, disposition, transfer or retention, may be approved by the municipal governing body and may be made only after approval of the urban renewal plan by the municipal governing body. A copy of the agreement or agreements related to the sale, lease, disposition or transfer shall be filed as a public record with the clerk of the municipality and the county clerk of the county in which the situs of the municipality is located.

B. The municipality may transfer real property necessary and convenient to the execution of an approved urban renewal plan, or any interest therein, acquired by it, to the Urban Renewal Authority or a

redevelopment corporation established under the provisions of this article. The transfer of real property or any interest therein to the Urban Renewal Authority shall be on such terms as may be deemed to be desirable and in the public interest. Such property, or interest therein, transferred to a redevelopment corporation shall be at its fair values for uses in accordance with an approved urban renewal plan. Any such transfer of real property or interest therein shall be by agreement to be executed only after approval of the urban renewal plan by the municipal governing body. A copy of the agreement or agreements related to such transfer of real property shall be filed as a public record with the clerk of the municipality and the county clerk of the county in which the situs of the municipality is located.

C. Purchasers or lessees of real property in an urban renewal area and their successors and assignees shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the Urban Renewal Authority or the municipal governing body may determine to be in the public interest, including but not limited to the obligation to begin and complete within a reasonable time any improvements on such real property required by the urban renewal plan. The Urban Renewal Authority or municipality may require an appropriate performance bond to insure compliance with such requirements.

D. In determining the fair value of real property for uses in accordance with the urban renewal plan, the Urban Renewal Authority or the municipality, whichever the case may be, shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions and obligations assumed by the purchaser or lessee or by a public body or public agency retaining the property, and the objectives of such plan for the prevention of the recurrence of blighted areas. The Urban Renewal Authority in any instrument of conveyance to a private purchaser or lessee or the municipality in any instrument of conveyance to a redevelopment corporation may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without prior written consent until such purchaser or lessee has completed the construction of any or all improvements which such purchaser has obligated himself to construct thereon. Real property acquired for urban renewal purposes by the municipality or the Urban Renewal Authority shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan to a redevelopment corporation or other private person or persons. The urban renewal plan, or such part or parts of such plan as the Urban Renewal Authority or the municipality may determine, may be recorded

in the land records of the county in such manner as to afford actual or constructive notice thereof.

E. An Urban Renewal Authority or a municipality may operate and maintain, during the project development stage, real property acquired in an urban renewal area pending the disposition of the property as authorized in this article, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

F. The urban renewal plan may provide that the owners of record of lands within the urban renewal project at the time of project execution, if the Urban Renewal Authority deems it feasible and finds that such owners of record are financially and otherwise qualified, may retain their land and participate in the renewal or redevelopment of the project area. In every such case, the Urban Renewal Authority shall enter into an owner participation agreement with such owner or owners, which agreement shall provide that the owner agrees to carry out the purposes of the urban renewal plan, to devote such property to uses specified in the urban renewal plan, and shall contain provisions deemed to be necessary or desirable to assist in preventing the development or spread of future blight or to otherwise carry out the purposes of this article. Such agreement shall contain such requirements as the Urban Renewal Authority may determine to be in the public interest, including the obligation to begin and complete within a reasonable time any improvements, necessary remodeling modification of any existing structure or structures on the real property required by the urban renewal plan. The Urban Renewal Authority may require an appropriate performance bond to insure compliance with such requirements. In all other respects, the owner participation agreement shall be consistent with and make requirements similar to the conditions to sale developed for similar property in the same project.

Added by Laws 1977, c. 256, § 38-114, eff. July 1, 1978. Amended by Laws 1998, c. 333, § 1, emerg. eff. June 3, 1998.

§11-38-115. Notes or bonds.

A. An Urban Renewal Authority shall have the power to issue notes or bonds, including revenue bonds, from time to time at its discretion to finance the undertaking of any urban renewal project under this article, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall also have power to issue refunding notes or bonds for the payment or retirement of such notes or bonds previously issued by it. Such notes or bonds shall be made payable, as to both principal and interest, solely from:

1. The income, proceeds, revenues, and funds of the Urban Renewal Authority derived from or held in connection with its

undertaking and carrying out urban renewal projects under this article;

2. Any private source, contribution or other financial assistance;

3. Contributions or other financial assistance from the state or federal government;

4. Any other monies derived from gifts, grants, the sale of properties or any other legally available source;

5. The proceeds from any additional borrowings;

6. Taxes on incremental property values allocated to a special fund of the city and appropriated by the city to the Urban Renewal Authority, under the provisions of Sections 3 through 6 of this act; or

7. Any combination of these methods.

Provided, however, that payment of such notes or bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or any other source, in aid of any urban renewal projects of the Urban Renewal Authority under this article, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the Urban Renewal Authority.

B. Notes or bonds issued under this section shall not constitute an indebtedness of the state or any municipality.

C. Notes or bonds issued under the provisions of this article are declared to be issued for an essential public and governmental purpose, and together with interest thereon and income therefrom shall be exempted from all taxes.

D. Notes or bonds issued under this section shall be authorized by resolution of the Urban Renewal Authority and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate determined feasible by the Urban Renewal Authority, be in such denomination or denominations, be in such form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

E. Such notes or bonds must be sold to the lowest and best bidder at public sale held after notice published prior to such sale in a newspaper having general circulation in the area of operation and in such other medium of publication as the Authority may determine. Provided, that such notes may be sold to the federal government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such notes or bonds is sold to the federal government, the balance may be sold at

private sales at not less than par at an interest cost of not to exceed the interest cost of the portion of the notes sold to the federal government.

F. In case any of the public officials of the Authority or any other public body whose signature appears on any notes or bonds issued under this article shall cease to be such officials before the delivery of the notes or bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding any notes or bonds issued pursuant to this article shall be fully negotiable.

G. In any suit, action or proceeding involving the validity or enforceability of any notes or bonds, issued under this article or the security therefor, any such note reciting in substance that it has been issued by the Urban Renewal Authority in connection with an urban renewal project, as defined in this article, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this article. Amended by Laws 1983, c. 310, § 2, eff. Nov. 1, 1983.

§11-38-116. Notes or other obligations as legal investments.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest in sinking funds, moneys, or other funds belonging to them or within their control in any notes or other obligations issued by a municipality or an Urban Renewal Authority pursuant to this article and vested with urban renewal project powers under this article; Provided, that such notes, bonds or other obligations may be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such notes, bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such notes, bonds or other obligations) will suffice to pay the principal of such notes, bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreements are required to be used for the purpose of paying the principal and interest of such notes, bonds or other obligations at their maturity. Such notes, bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivision and officers, public or private,

to use any funds owned or controlled by them for the purchase of any such notes, bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.
Laws 1977, c. 256, § 38-116, eff. July 1, 1978.

§11-38-117. Organization of urban redevelopment corporations - Powers, duties and obligations.

A. Corporations referred to in this article as urban redevelopment corporations shall be organized in the following manner: The articles of agreement or association shall be prepared, subscribed and acknowledged, and filed in the office of the Secretary of State pursuant to the general corporation laws of the state and shall contain: (1) The name of the proposed corporation, which must have the words "redevelopment corporation" as a part thereof; (2) The purposes for which it is formed, which shall be to acquire, construct, maintain and operate a redevelopment project or redevelopment projects in accordance with the provisions of this article; (3) The amount of the capital stock, and if any be preferred stock, the preference thereof; (4) The number of shares of which the capital shall consist, all of which shall have a par value; (5) The municipality in which its principal business office is to be located; (6) Its duration, which shall not exceed ninety-nine (99) years; (7) The number of directors, which shall not be less than three (3), nor more than thirteen (13); (8) The names and post office addresses of the directors for the first year, at least one of whom shall be a resident of the State of Oklahoma; (9) The names and post office addresses of the subscribers to the articles of association or agreement; (10) A provision that in the event that income debenture certificates are issued by a corporation, the owners thereof shall have the same right to vote as they would have if possessed of certificates of stock of the amount and par value of the income debenture certificates held by them. The articles may provide for the retirement of income debenture certificates or preferred stock of the corporation as and when there shall be funds available in the treasury of the corporation from the receipt of amortization of sinking fund installments for that purpose; and (11) A declaration that the corporation has been organized to serve a public purpose; that all real estate acquired by it and all structures erected by it are to be acquired for the purpose of promoting the public health, safety, and welfare, and that such corporation is organized for the purpose of clearing, replanning, reconstructing or rehabilitating blighted areas, and the construction of such industrial, commercial, residential or public structure as may be appropriate including provisions for recreational and other facilities incidental or appurtenant thereto. B. No corporation now organized under the laws

of this state shall change its name to a name, and no such corporation hereafter organized shall have a name, containing the word "redevelopment" as a part thereof except as provided in this article. No foreign corporation now authorized to do business in this state shall change its name to a name, and no such corporation shall hereafter be authorized to do business in the state with a name, containing the word "redevelopment" as a part thereof.

C. An urban redevelopment corporation may operate under this article on one or more redevelopment projects and, with respect to each such project, shall have such rights, powers, duties, and immunities and obligations, not inconsistent with the provisions of this article, as may be granted to it by an agreement to operate and to execute an urban renewal plan or any portion thereof. The agreement to operate may be entered between the redevelopment corporation and any municipality or Urban Renewal Authority. The agreement shall provide, among other things, that the corporation is to carry out the purposes of the urban renewal plan for the project area, and to devote such property as it may acquire, to uses specified in the urban renewal plan and shall contain provisions deemed to be necessary or desirable to assist in preventing the development or spread of future blight or otherwise carry out the purposes of this article. The agreement shall contain such requirements as the municipality or Urban Renewal Authority may determine to be in the public interest, including the obligation to begin to execute the redevelopment plan within a reasonable time. The agreement to operate may provide that the redevelopment corporation is to prepare a renewal plan; however, execution of the plan shall not proceed until such plan is adopted by the municipality as required in this article. The agreement may require the redevelopment corporation to furnish a performance bond for an amount to be determined by the municipality or the Urban Renewal Authority whichever the case may be.

D. The provisions of the general corporation law, as presently in effect and as hereafter from time to time amended, shall apply to urban redevelopment corporations, except where such provisions are in conflict with the provisions of this article.

E. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at such meeting. Any articles filed pursuant to law in the office of the Secretary of State with respect to any such action, and any affidavit required by law to be annexed to such articles shall contain the same statements or recitals. The articles shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such debenture holders were stockholders holding

shares of an additional class of stock entitled to vote on such action, or with respect to the proceedings provided in such document.

F. An urban redevelopment corporation shall establish and maintain depreciation, obsolescence, and other reserves, also surplus and other accounts, including, among others, a reserve for the payment of taxes according to recognized standard accounting practices.

G. No urban redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year unless there shall exist at the time of such payment no default under any amortization requirements with respect to its indebtedness, or unless all accrued interest, taxes and other public charges shall have been duly paid or reserves set up for payment therefor, and adequate reserves provided for depreciation, obsolescence and other proper reserves.

H. The real property, title of which is vested in an urban redevelopment corporation, shall be subject to the payment of general ad valorem taxes imposed by the state or any political subdivision thereof.

I. Notwithstanding any requirement of law to the contrary, or the absence of direct provision therefor in the instrument under which a fiduciary is acting, any of the following persons, partnerships, or corporations, and public bodies or public officers, owning or holding any real property within any blighted area proposed to be cleared or redeveloped by an urban redevelopment corporation, may grant, sell, lease or otherwise transfer any such real property to an urban redevelopment corporation, and receive and hold any cash, mortgages, or other securities or obligations exchanged therefor by such urban redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or to and by the urban redevelopment corporation in connection with the execution of any urban renewal plan: (1) Every executor, administrator, trustee, guardian or any other person holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids; (2) The state, its subdivisions, municipalities, all other public bodies, and all public officers; (3) Persons, partnerships and corporations, organized under or subject to the provisions of the banking and trust laws (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations); (4) The State Bank Commissioner or the Commissioner of Securities as conservator, liquidator, or rehabilitator of any such person, partnership, or corporation.

J. An urban redevelopment corporation may acquire real property or secure options in its own name or in the name of nominees, or it may acquire real property by gift, grant, lease, purchase, lease-purchase, or otherwise.

K. When title to real property has been vested in an urban redevelopment corporation, the urban redevelopment corporation may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant, or other persons may occupy or use such property upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the urban redevelopment corporation for the termination of such occupation or use of the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the urban redevelopment corporation shall be entitled to possession of the real property and may maintain an action for either unlawful detainer or ejectment for the purpose of recovering immediate possession thereof.

L. An urban redevelopment corporation may borrow funds and secure the repayment thereof by mortgage which shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area. Certificates, bonds and notes, or part interest therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in an urban renewal area, or any part thereof, shall be securities in which all the following persons, partnerships, or corporations and public bodies or public officers may legally invest the funds within their control: (1) Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; (2) Persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations and trust companies); (3) The State Bank Commissioner or the Commissioner of Securities as conservator, liquidator, or rehabilitator of any such person, partnership or corporation; (4) Persons, partnerships, or corporations organized under or subject to the provisions of the insurance law; (5) Fraternal benefit societies; and (6) The State Commissioner of Insurance as conservator, liquidator, or rehabilitator of any such person, partnership or corporation. Any mortgage on the real property in an urban renewal area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

M. Any urban redevelopment corporation may lease, sell, grant, dedicate or otherwise dispose of any or all of the real property acquired by it for the purposes of a redevelopment project. In the event of the sale by reason of foreclosure or other disposition of real property of any urban redevelopment corporation by voluntary transfer or otherwise, or by reason of the foreclosure of any mortgage or other lien, through insolvency or bankruptcy proceedings,

by order of any court of competent jurisdiction, by voluntary transfer or otherwise, the purchaser of such real property of such redevelopment corporation shall continue to use, operate and maintain such real property in accordance with the provisions of the urban renewal plan.

N. Any urban redevelopment corporation may accept grants or loans of money from the Federal Government or any department or agency thereof.

O. Any corporation organized under the laws of the State of Oklahoma, or admitted to do business in the State of Oklahoma, shall have power to purchase shares of stock of an urban redevelopment corporation organized under the provisions of this article.
Laws 1977, c. 256, § 38-117, eff. July 1, 1978.

§11-38-118. Personal interest of public officials or employees in project or property.

No public official or employee of a municipality (or Board or Commission thereof), and no Commissioner or employee of an Urban Renewal Authority which has been vested by a municipality with urban renewal project powers under this article, shall voluntarily acquire any personal interest, direct or indirect, in any urban renewal project, or in any property that is to be acquired or developed with public finance assistance and that is included or planned to be included in any urban renewal project of such municipality or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the municipal governing body. If such official, Commissioner or employee presently owns or controls, or owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this fact in writing to the municipal governing body, and any such officials, Commissioner or employee shall not participate in any action by the municipality (or Board or Commission thereof), or Urban Renewal Authority affecting such property. This section shall not preclude acquisition of a residence, acquisition of any property after issuance of a certificate of completion, or agreement to redevelop in accordance with the objectives of such urban renewal project, provided such official, Commissioner, or employee discloses any actual or prospective interest and does not participate in any official action approving such agreement. The disclosure required to be made by this section to the municipal governing body shall concurrently be made to the Urban Renewal Authority which has been vested with urban renewal project powers by the municipality pursuant to the provisions of this article. No Commissioner or other officer of any Urban Renewal Authority, Board or Commission exercising the powers pursuant to this

article shall hold any other public office under the municipality other than his commissionership or office with respect to such Urban Renewal Authority.
Added by Laws 1977, c. 256, § 38-118, eff. July 1, 1978. Amended by Laws 2005, c. 210, § 1, emerg. eff. May 23, 2005; Laws 2008, c. 367, § 7, eff. Nov. 1, 2008.

§11-38-119. Law governing.

Insofar as the provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling. The powers conferred by this article shall be in addition and supplemental to the power conferred by any other law.
Laws 1977, c. 256, § 38-119, eff. July 1, 1978.

§11-38-120. Designation of tax increment allocation district.

A. At the time of adoption of an urban renewal plan pursuant to this act, or subsequent thereto, the municipal governing body may designate the urban renewal area to be a tax increment allocation district by either resolution or ordinance.

B. Before a municipality may designate a tax increment allocation district, the municipal governing body shall hold a public hearing thereon, after public notice thereof by publication at least one time not less than fifteen (15) days prior to the date of such public hearing, in a newspaper having general circulation in the area of operation of the municipality, and by posting not less than five public notice signs, each having at least nine (9) square feet of display area, for a period of fifteen (15) successive days including the day of the public hearing for which notice is being given, in the area to be included in the proposed tax increment allocation district. Public notice may be combined with public notice of a hearing on an urban renewal plan or an amendment thereto.

C. Following such hearing, the municipal governing body may designate an urban renewal area to be a tax increment allocation district if it finds that the designation of such district is necessary or desirable in achieving the objectives of one or more urban renewal or urban redevelopment projects.
Added by Laws 1983, c. 310, § 3, eff. Nov. 1, 1983.

§11-38-121. Costs of urban renewal or redevelopment projects and repayment of interest and principal interest on bonds.

Notwithstanding any other statutory provision, it is hereby stated that the costs of undertaking and carrying out urban renewal or urban redevelopment projects and the repayment of interest and principal on bonds issued under this act are valid and lawful objects to which any revenue derived from ad valorem taxes levied under subsection (a) of Section 9 of Article X of the Oklahoma Constitution and not apportioned for the use of school districts under subsection

(a) of Section 9 of Article X of the Oklahoma Constitution or Section 2495 of Title 68 of the Oklahoma Statutes, may be applied.
Added by Laws 1983, c. 310, § 4, eff. Nov. 1, 1983.

§11-38-122. Certain documents to be transmitted to county clerk, assessor and treasurer - Valuation of real property.

A. After the designation by the municipal governing body of a tax increment allocation district, the city clerk shall transmit a copy of the description of the district, a copy of the resolution or ordinance designating the district and a map or plat indicating the boundaries of the district to the clerk, assessor and treasurer of the county in which the tax increment allocation district is located. These documents shall be transmitted as promptly as practicable following the designation of the district, but in any event on or before January 1 of the next year following the designation of the district.

B. As soon as possible after the documents referred to in subsection A of this section have been received by the county assessor's office, the county assessor shall assess the value of all real property located in the tax increment allocation district. This assessed valuation, hereinafter referred to as the "base year net assessed valuation", shall be certified to the county clerk and the city clerk on or before July 1 of the next year following the designation of any tax increment allocation district.
Added by Laws 1983, c. 310, § 5, eff. Nov. 1, 1983.

§11-38-123. Apportionment of mileage.

For every year in which tax increment allocations are used by a city or an Urban Renewal Authority, the county excise board shall apportion to the city in which such tax increment allocation district is located, a part of the millage authorized by subsection (a) of Section 9 of Article X of the Oklahoma Constitution. The procedure for apportioning such millage shall be as follows:

1. Upon notice of such use by the city, the county assessor shall reassess the amount of increase from the base year net assessed valuation of real property within a tax increment allocation district and shall certify such amount to the county clerk and the county excise board before July 1 of each year. Such amount, to the extent not already included, shall be added to the net assessed valuation of the tax increment allocation district and the total shall be referred to as the current year net assessed valuation;

2. The county excise board shall then determine the amount to be apportioned. The procedure for determining such amount shall be as follows:

a. compute the revenue derived from the tax increment allocation district's base year net assessed valuation by multiplying the total millage levied during the prior year against

the base year net assessed valuation of the tax increment allocation district,

b. compute the revenue derived from the tax increment allocation district's current year net assessed valuation by multiplying the total millage levied during the prior year against the current year net assessed valuation of the tax increment allocation district,

c. compute the incremental tax revenue of the tax increment allocation district subtracting the revenue derived from the base year net assessed valuation from the revenue derived from the current year net assessed valuation, and

d. divide the incremental tax revenue by the current year net assessed valuation of the city in which the tax increment allocation district is located.

The result represents the amount of millage to be apportioned by the county excise board to the city in which the tax increment allocation district is located;

3. The county excise board shall then apportion such amount to the city, for use for urban renewal and urban redevelopment purposes, in accordance with Section 2495 of Title 68 of the Oklahoma Statutes, provided that in no event shall the apportionment authorized by this section exceed one-half (1/2) mill; and

4. Such allocations with respect to a tax increment allocation district shall terminate upon the expiration of thirty (30) years or such earlier date as may be determined by the municipality.

Added by Laws 1983, c. 310, § 6, eff. Nov. 1, 1983.

§11-39-101. Citation.

This act may be cited as the Improvement District Act.

Added by Laws 1978, c. 233, § 1, emerg. eff. April 25, 1978.

§11-39-102. Definitions.

As used in the Improvement District Act, the singular includes the plural and:

1. “Acquired” means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means;

2. “City” means any city or town incorporated pursuant to the laws of Oklahoma;

3. “Engineer” means a city engineer, city official, employee or other person competent to advise and assist the governing body in planning and making an improvement;

4. “Cost” means any cost necessarily or reasonably incurred in making the improvement, including but not limited to cost of:

a. preparation of preliminary reports,

b. preparation of plans and specifications,

c. preparation and publication of notices of hearings, resolutions, ordinances and other proceedings,

d. fees and expenses for engineers, attorneys, laborers and other personal services,
e. rights-of-way, materials and other lawful expenses incurred in making any improvement, and
f. capitalized interest, funding of reserves, premiums for reserve surety bonds, and obtaining bond insurance, letters of credit or other credit enhancements or liquidity instruments;

5. "District" means an area designated by the governing body to be benefited by an improvement and subjected to payment of special assessments for all or a portion of the cost of the improvement;

6. "Governing body" means the city council, city commission or board of trustees of an incorporated city or town;

7. "Improve" means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, purchase, alter or otherwise perform any work which provides a new facility, or enhances, extends or restores the value or usefulness of an existing facility;

8. "Improvement" means any type of improvement made by authority of this Improvement District Act and includes reimprovement of any prior improvement made pursuant to any other act;

9. "Mail" means by first-class mail;

10. "Trustee" means a city acting pursuant to this act;

11. "Street" means any highway, street, alley, boulevard, avenue, right-of-way, public ground, or other public facility, or any part thereof; and

12. "Publish" or "publication" means printing in a newspaper which maintains an office in the city or town and is of general circulation within the city or town, or, if there is no newspaper which maintains an office in the city or town, a newspaper of general circulation within the city or town and in two (2) separate issues thereof, at least seven (7) days apart.

Laws 1978, c. 233, § 2, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 4, eff. Nov. 1, 2007.

§11-39-103. Creation of improvement districts - Purpose - Contents.

The governing body of any city may create one or more districts for the purpose of making or causing to be made any improvement or combination of improvements that confer special benefit upon property within the district. Such improvement or combination of improvements may include the following, without limitation because of enumeration:

1. Acquisition of property or interest in property when necessary for any of the purposes authorized by the Improvement District Act;

2. Opening, creating, widening and extending or altering of streets to improve paving, and surfacing, constructing and reconstructing gutters, curbs, sidewalks, crosswalks, driveway

entrances and structures, drainage facilities, and service connections from sewers, water, gas, electricity and other utility mains, conduits or pipes;

3. Constructing or improving main and lateral storm water drains and sanitary sewer systems and facilities;

4. Installation or improvement of street lights and street lighting systems;

5. Construction or improvement of water mains and waterworks systems;

6. Improvement of parks, playgrounds and recreational facilities;

7. Improvement of any street, parking or other facility by landscaping, or planting of trees, shrubs and other plants;

8. Constructing or improving dikes, levees and other flood control works, gates, lift stations, bridges and streets appurtenant thereto;

9. Constructing or improving vehicle and pedestrian bridges, overpasses and tunnels;

10. Constructing or improving retaining walls and area walls on public ways or land abutting thereon;

11. Constructing or improving property for off-street parking facilities, including construction and equipment of buildings thereon;

12. Constructing or improving pedestrian malls; or

13. Constructing or improving offsite facilities or infrastructure serving all or a portion of land within a district; notwithstanding that, such facilities or infrastructure may also serve areas outside a district, but subject to cost apportionment requirements of subsection A of Section 39-110 of this title.

Added by Laws 1978, c. 233, § 3, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 5, eff. Nov. 1, 2007.

§11-39-103.1. Additional improvement districts - Assessments - Objections - Termination.

A. In addition to those purposes set out in Section 39-103 of this title, the governing body of any municipality having a population of more than one thousand five hundred (1,500) may create one or more districts and levy assessments for the purpose of providing or causing to be provided any maintenance, cleaning, security, shuttle service, upkeep, marketing, management or other services which confer special benefits upon property within the district by preserving, enhancing or extending the value or usefulness of any improvement described in Section 39-103 of this title, whether or not the improvement was financed or constructed pursuant to this act and such governing body may exclude or modify such assessments according to benefits received on properties which are exempt from ad valorem taxation, except those assessments

provided for by Section 39-103 of this title. Without limiting or expanding the preceding sentence or any other provision of this act, such a district may be comprised of a designated geographical area within the municipality and limited to only those properties within such geographical area on which a hotel or motel having 50 or more rooms available for occupancy is located, if the sole purpose of the district is to provide marketing services for private or public events reasonably calculated to increase occupancy and room rates for such properties as a class. Such districts may also be used to fund maintenance, management, marketing and other services being provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce. In addition, such districts may be used to fund the acquisition, construction, installation or maintenance of capital improvements with an estimated useful life of five (5) years or more, including but not limited to:

1. Parking facilities;
2. Benches, booths, kiosks and pedestrian shelters;
3. Signs;
4. Trash receptacles;
5. Public restrooms;
6. Lighting, heating and air conditioning facilities;
7. Decorations;
8. Parks, fountains and planting areas; and
9. Ramps, sidewalks and plazas;

provided the total cost of such improvement is funded in one year's assessment.

General street repair and maintenance on any street used by vehicular traffic shall not be made a part of any assessments provided for hereunder.

B. For districts created under this section, the engineer's report may be amended by resolution of the governing body to provide new or additional services or improvements upon the petition of the record owners of not less than one-half (1/2) of the area liable for assessment under the proposal. Petitions seeking to add new or additional services or improvements to an existing district shall be filed with the city clerk not less than sixty (60) days prior to the date of the public hearing on the annual assessment roll.

The petition shall set forth:

1. A general description of the new or additional services or improvements to be provided;
2. The estimated costs of the services and improvements proposed to be added;
3. The area of the district to be assessed under the proposal; and
4. The proposed method of assessment.

C. For districts created under this section, property adjacent to such district may be annexed into the district upon the petition

of the record owners of more than sixty percent (60%) of the area liable to be annexed. Petitions seeking to annex additional property into an existing assessment district shall be filed with the city clerk not less than sixty (60) days prior to the hearing on the annual assessment roll.

The petition shall set forth:

1. The area to be annexed to the district;

2. The nature of the services and/or improvements to be provided to the area to be annexed;

3. The estimated costs of the services and/or improvements to be provided to the area to be annexed; and

4. The proposed method of assessment.

D. If the governing body determines that it is desirable to continue to provide or cause to be provided the improvements and services, to provide new or additional services, or improvements, or to annex additional property into an existing assessment district authorized by this section, the governing body shall annually prepare and cause to be filed in the office of the municipal clerk a resolution containing, among other things:

1. The assessment roll;

2. The new or additional services, or improvements proposed to be provided, if any;

3. A description of the area proposed to be annexed into the district, if any;

4. The name and address of the last-known owner of each tract or parcel of land to be assessed, or if the name of the owner is unknown, state "unknown". The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer;

5. A description of each tract or parcel of land to be assessed; and

6. The amount of the assessment against each tract or parcel of land.

If after filing the assessment roll, it appears that the amount of the assessment against any tract or parcel of land shall be increased, new or additional services, or improvements are to be provided or additional property is to be annexed into the district, the governing body shall by resolution set a time and place for the hearing on the resolution at which an owner may object to the amount of the assessment, the new or additional services, or improvements to be provided or the additional property to be annexed.

E. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the municipal clerk, the deputy municipal clerk or the engineer shall mail the notice of the hearing on the resolution to the owner of the tract or parcel of land on which the amount of assessment is increased, new or additional services or improvements are proposed to be added or proposed to be

annexed into the district. Proof of the mailing is to be made by affidavit by the municipal clerk, the deputy municipal clerk or the engineer, which shall be filed in the office of the municipal clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the municipal clerk.

F. No district created under this section shall continue beyond the date that final payment of all principal, interest and other amounts due in connection with bonds issued by that district has been made, or if no bonds have been issued by the district, beyond the date that is thirty (30) years after the adoption of the resolution creating the district, unless re-created as provided in Section 39-101 et seq. of this title for creation of districts. Provided that, at any time after its creation, and provided further that, no bonds or other financial obligations of a district are then outstanding, the district shall cease to exist if:

1. The governing body by resolution terminates the district; or

2. The owners of a majority in area of the tracts or parcels of land within the district and a majority of the owners of record of property within the district petition in writing to terminate the district.

Such termination shall take effect at the end of the fiscal year in which the governing body adopts such resolution or determines the validity of such petition. Nothing herein shall excuse a tract or parcel of land from its liability for deferred payments or any assessment.

Added by Laws 1981, c. 139, § 1, emerg. eff. May 5, 1981. Amended by Laws 1983, c. 154, § 1, emerg. eff. May 26, 1983; Laws 1988, c. 152, § 4, eff. Nov. 1, 1988; Laws 1998, c. 30, § 1, eff. Nov. 1, 1998; Laws 2007, c. 362, § 6, eff. Nov. 1, 2007; Laws 2010, c. 322, § 1, eff. Nov. 1, 2010; Laws 2016, c. 53, § 1, eff. Nov. 1, 2016.

§11-39-104. Number of streets or areas included - Property assessed for improvement.

Any district may include one or more streets or areas which need not be contiguous and may include two (2) or more types of improvements. Such improvements may be included in one (1) proceeding and constructed and financed as one improvement. The district shall include, for the purpose of assessment, all the property which the governing body determines is benefited by the improvement or improvements, including property utilized for public, governmental, burial, or charitable purposes, except property of any religious organization used primarily for religious purposes, or of the United States, or any agency, instrumentality or corporation

thereof, in the absence of consent of Congress. The board of county commissioners, the governing body of a city, town, school district or any agency or institution of state government is authorized to pay the amount assessed against property under its ownership or control. Added by Laws 1978, c. 233, § 4, emerg. eff. April 25, 1978. Amended by Laws 2003, c. 454, § 2, emerg. eff. June 6, 2003.

§11-39-105. Assessments against property wholly within, partly within or wholly without or partly without boundary of city levying assessment - Contracts for improvements.

A. Whenever the boundary of a city is upon or along any street which at that point lies wholly within, partly within or partly without or wholly outside of its boundary, but contiguous to the boundary of the city, the governing body of such city may include the street in the district, improve that portion of such street and assess a part of the cost thereof against the abutting property lying on both sides of such street. Provided, however, if such street is wholly or partly within the boundary of another city, the governing body of such other city shall, by resolution, consent to the improvement and give its consent to assessment of the benefited property.

B. If, within thirty (30) days after the adoption of the ordinance levying the assessment by the city creating the district, the governing body of the city in which the property is situated does not, by resolution, consent or ratify the assessments, the governing body of the city creating the district may:

1. Modify the boundary of the district to exclude the property from the district;

2. Assume the cost of the improvement assessed against the property lying beyond the boundary of the city; or

3. Nullify the proceedings, including any contract, relating to the district. Any failure on the part of the governing body of the other city to ratify the assessments levied by the city creating the improvement district shall not affect the validity of the assessments which have been levied against any property lying within the limits of the city creating the improvement district.

C. The owner, or his designated agent, of any property lying outside the boundary of the city creating the district and in the district, including the county and any affected subdivision outside the city, shall have the same rights granted to owners of property lying within the boundary of the city creating the district.

D. Whenever a part of the boundary of two or more cities is upon or along any street or is along the edge of any street and the governing bodies of the cities determine the necessity for making an improvement upon any portion of the street, the governing bodies of the cities may contract, upon such terms as are to them mutually agreeable, to make the improvement. The contract shall:

1. Authorize one of the cities to create the district pursuant to the Improvement District Act; and

2. Prescribe the apportionment of the costs, if any, among the cities and the manner and payment of such cost. The payment of such costs by the cities party to the contract is lawful whether the improvement is wholly within, partly within and partly without or wholly outside its limits.

Added by Laws 1978, c. 233, § 5, emerg. eff. April 25, 1978.

§11-39-106. Petitions - Preliminary plans and estimates of cost - Resolutions.

A. For area within the boundary of a city, a petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. In addition, the petition shall be in a format which:

1. Sets forth:
   a. the general nature of the improvements to be made,
   b. the estimated or probable cost of the proposal,
   c. the area of the proposed district to be assessed,
   d. the proposed method of assessment, and
   e. the proposed apportionment of cost, if any, between the district and the city at large; and
2. Is signed by:
   a. a majority of the resident owners of record of property liable for assessment under the proposal, or
   b. the resident owners of record of more than one-half (1/2) of the area liable for assessment under the proposal, or
   c. the owners of record of more than one-half (1/2) of the area liable to be assessed under the proposal.

B. For area outside the boundary of a city, a petition shall be filed with the city clerk which:

1. Sets forth:
   a. the general nature of the improvements to be made,
   b. the estimated or probable cost of the proposal,
   c. the area of the proposed district to be assessed,
   d. the proposed method of assessment,
   e. the proposed apportionment of cost, if any, between the district and the city at large; and
2. Is signed by:
   a. a majority of the resident owners of record of property liable for assessment under the proposal, and
   b. the owners of record of more than one-half (1/2) of the area liable for assessment under the proposal; and

3. States the area is contiguous to, but not within, the boundary of the city.

C. Whenever the governing body, either upon its own initiative or in response to a petition, determines that the creation of the district is necessary, it may by resolution direct the engineer to prepare preliminary plans and an estimate of cost for the proposed district. The resolution shall:

1. Describe in general terms the property to be included in the district;

2. Require the engineer to prepare:

a. an assessment plat showing the area to be included in the improvement district, and

b. an addendum to the assessment plat showing the amount of maximum benefit estimated to be assessed against each tract or parcel in the district on a front-foot, zone, area or other equitable basis, which basis shall be set forth in the resolution; and

3. Require the engineer to prepare preliminary plans for one or more types of improvement showing:

a. for each type of curb, gutter, sidewalk and street, a typical section of the contemplated improvement, the type of material to be used and the approximate thickness and width of the material,

b. for each type of storm sewer or drain, sanitary sewer or water line, the type of material and approximate diameter or diameters of any trunk lines, mains, laterals or house connections, or

c. for each other type of improvement or other major component of the foregoing types of improvements, a general description.

D. The engineer shall include in the total cost estimate for the district all expenses including but not limited to advertising, legal, appraising, engineering and printing expenses which the engineer deems necessary to pay the complete cost of the improvement.

E. The engineer shall submit to the city clerk the:

1. Assessment plat;

2. Preliminary plans of the type of construction; and

3. Estimate of costs for the improvement.

F. After the governing body examines the assessment plat, preliminary plans and estimates of cost for the district, the governing body may adopt a resolution which:

1. Proposes that the district be created and the improvement be constructed; and

2. Instructs the city clerk or engineer to give notice of a hearing on the proposed district.

Added by Laws 1978, c. 233, § 6, emerg. eff. April 25, 1978. Amended by Laws 2001, c. 54, § 4, eff. Nov. 1, 2001.

§11-39-107. Notice of creation of improvement district.

A. The notice as to creating an improvement district shall:

1. Contain the time and place when the governing body shall hold a hearing on the resolution to create the district;

2. Describe the improvement to be constructed and the general location thereof; and

3. State that any interested person may ascertain in the office of the municipal clerk:

a. a description of the property to be assessed, and

b. the maximum amount of benefit estimated to be conferred on each tract or parcel of land.

B. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the city clerk, his deputy or the engineer shall mail the notice of the hearing on the proposed district to the owner of the tract or parcel of land to be assessed the cost of the improvement at his last-known address. The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer. The notice shall contain a preliminary basis for estimating the assessment. Proof of the mailing is to be made by affidavit of the city clerk, his deputy, or the engineer, which shall be filed in the office of the city clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act.

C. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the city clerk.

Added by Laws 1978, c. 233, § 7, emerg. eff. April 25, 1978.

§11-39-108. Hearings on creation of district - Protests and objections.

A. At the hearing of the governing body on the proposed resolution creating a district, any interested person or owner of property to be assessed for the improvement may file a written protest or objection questioning the:

1. Propriety and advisability of constructing the improvement;

2. Estimated cost of the improvement;

3. Manner of paying for the improvement; and

4. Amount to be assessed against the individual tract or parcel of land.

B. The governing body may recess the hearing from time to time so that all protestants may be heard.

C. At the hearing, the governing body may:

1. Correct any mistake or irregularity in any proceeding relating to the improvement;

2. Correct an assessment made against any tract or parcel of land;

3. In case of any invalidity, reassess the cost of the improvement against an abutting tract or parcel of land;

4. Delete any tract or parcel of land, protested by the owner, from the district; and

5. Recess the hearing from time to time.

D. Within thirty (30) days after the governing body has concluded the hearing; determined the advisability of constructing the improvement and the type and character of the improvement; and created the improvement district, any person who, during the hearing, filed a written protest with the governing body protesting the construction of the improvement may commence an action in district court to correct or set aside the determination of the governing body. After the lapse of thirty (30) days succeeding the determination of the governing body, any action attacking the validity of the proceedings and the amount of benefit to be derived from the improvement is perpetually barred. Provided, however, if the owners of fifty percent (50%) or more in area of the tracts or parcels within the district or a majority of the owners of record of property in the assessment area protest, in writing, the creation of the district, the district shall not be created.

Added by Laws 1978, c. 233, § 8, emerg. eff. April 25, 1978. Amended by Laws 1985, c. 26, § 1, eff. Nov. 1, 1985; Laws 1999, c. 343, § 3, eff. Nov. 1, 1999.

§11-39-109. Award of contract - Payment of contractor.

After the governing body creates a district, the governing body may proceed, either to make the improvement by force accounting, or call for sealed bids on the proposed improvement, or where the district comprises land owned by a single party, developer, or other legal entity that has petitioned for the creation of the district, contract with that single party, developer or other legal entity to make the improvement for future dedication or other conveyance to the city; provided, however, in the case of the districts created pursuant to Section 39-103.1 of this title and except as otherwise provided in this section, the governing body may contract for said services without calling for sealed bids or force accounting. The notice shall state the manner of payment to the contractor and whether the contractor will be paid in money, in bonds or in a proportion of money and bonds for making the improvement. The governing body may to the extent that funds are available authorize payments to the contractor during the construction of the improvement provided that the payments do not exceed the amount of work completed and that ten percent (10%) of such payments shall be retained by the city pending final acceptance by the city of the improvement. The term "improvement" as used in this section and Sections 101 through

136 of Title 61 of the Oklahoma Statutes shall not include any services or maintenance authorized and provided pursuant to Section 39-103.1 of this title.
Added by Laws 1978, c. 233, § 9, emerg. eff. April 25, 1978. Amended by Amended by Laws 1983, c. 170, § 22, eff. July 1, 1983; Laws 1986, c. 284, § 15, operative July 1, 1986; Laws 2007, c. 362, § 7, eff. Nov. 1, 2007.

§11-39-110. Apportionment of cost - Funding sources - Limitation of assessment - Assessment roll - Hearings on assessments.

A. Following a hearing held pursuant to Section 39-108 of this title, the governing body shall determine the maximum portion of the total estimated cost of the improvement that shall be assessed against benefited tracts or parcels of land or, if a contract for construction or acquisition of improvements has already been awarded, the portion of the total actual cost of the improvement to be assessed against such tracts or parcels. The maximum annual assessment may include the estimated costs of the administration and collection of assessments and the administration of associated bonds or other related funds. The governing body may use funds from any source, public or private, to pay for all or a portion of the assessment or the cost of the improvement. The assessment, including the cost of the improvement at an intersection, shall not exceed the estimated benefit to the tract or parcel of land assessed. Provided, however, the cost per front foot to be assessed against the benefiting property for paving a street, for paving alone, shall not exceed the cost per front foot assessed for paving a street that does not exceed thirty-six (36) feet in width.

B. With the assistance of the engineer, the governing body shall prepare and cause to be filed in the office of the city clerk an assessment roll containing, among other things:

1. The name and address of the last-known owner of each tract or parcel of land to be assessed, or if the name of the owner is unknown, state "unknown". The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer;

2. A description of the tract or parcel of land to be assessed; and

3. The amount of the assessment against each tract or parcel of land.

C. After the filing of the assessment roll, the governing body shall, by resolution, set a time and place for the assessment hearing when an owner may object to the amount of the assessment.

D. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the city clerk, the city clerk’s deputy or the engineer shall mail the notice of the hearing on the assessment roll to the owner of the tract or parcel of land being

assessed the cost of the improvement. Proof of the mailing is to be made by affidavit of the city clerk, the city clerk's deputy or the engineer, which shall be filed in the office of the city clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the city clerk.

E. Any property which shall be owned by the city, town or county, or any board of education or school district, shall be treated and considered the same as the property of other owners, and such city, town, county, school district or board of education within such district to be assessed may pay the total assessment against its property without interest within thirty (30) days from the date of the publication of the ordinance levying the assessment, or, in the event the same is not paid in full without interest within said thirty-day period, such city, town, county, school district or board of education shall annually provide by the levy of taxes a sufficient sum to pay the maturing installments of assessments and interest thereon.

Laws 1978, c. 233, § 10, emerg. eff. April 25, 1978; Laws 2007, c. 362, § 8, eff. Nov. 1, 2007.

§11-39-111. Filing of objections to assessment - Waiver of objection - Hearings - Levy of assessment - Ordinance.

A. Not later than three (3) days before the date of the hearing on the assessment roll, any owner of a tract or parcel of land which is listed on the assessment roll may file his specific objections to the amount of the assessment in writing with the city clerk. Unless presented as required in this subsection, any objection is deemed waived as to the regularity, validity and correctness of:

1. The proceedings;
2. The assessment roll;
3. Each assessment contained on the assessment roll; or
4. The amount of the assessment levied against each tract or parcel of land.

B. At the hearing, the governing body shall hear all objections which have been filed as provided in this section and may recess the hearing from time to time and, by resolution, revise, correct, confirm or set aside any assessment and order another assessment be made de novo.

C. The governing body by ordinance shall by reference to such assessment roll, or assessment roll as modified, if modified, and as confirmed by resolution, levy the assessments contained in the assessment roll. The decision, resolution and ordinance of the governing body shall be:

1. A final determination of the regularity, validity and correctness of the proceedings, the assessment roll, each assessment contained on the assessment roll, the amount of the assessment levied against each tract or parcel of land; and

2. Conclusive upon the owners of the tract or parcel of land assessed.

D. Within fifteen (15) days after the publication or posting of the ordinance, any owner who has filed an objection as provided in this section may commence an action in district court to correct or set aside the determination of the governing body. After the lapse of fifteen (15) days after the publication or posting of the ordinance, all actions, which include the defense of confiscation or attack the regularity, validity and correctness of the proceedings, the assessment roll, each assessment contained on the assessment roll, and the amount of the assessment levied against each tract or parcel of land, are perpetually barred.

Added by Laws 1978, c. 233, § 11, emerg. eff. April 25, 1978.

§11-39-112. Assessments - Rate - Interest - Delinquent payments - Liens.

A. The governing body may by ordinance:

1. Establish the time and terms of paying the assessment or an installment on the assessment;

2. Set a rate of interest not exceeding ten percent (10%) per annum upon deferred payments of the assessment which shall commence from the date of publication of the ordinance ratifying the assessment;

3. Set interest rates not exceeding ten percent (10%) per annum upon the outstanding principal amount of bonds issued by a district pursuant to Section 39-115 of this title; and

4. Fix penalties to be charged for delinquent payment of an installment on an assessment.

B. After the publication of the ordinance ratifying an assessment levied as provided in Section 39-111 of this title, the assessment with any interest or penalty accruing on such assessment shall constitute a lien upon the tract or parcel of land so assessed. Such lien shall be coequal with the lien for ad valorem taxes and the lien of other improvement districts, and be superior to all other liens, claims and titles. Unmatured installments are not deemed to be within the terms of any general covenant or warranty. All purchasers, mortgagees or encumbrancers of a tract or parcel of land so assessed shall acquire the tract or parcel of land subject to the lien so created.

C. Within sixty (60) days after the publication of the ordinance ratifying an assessment roll, the city clerk shall prepare, sign, attest with the municipal seal and record in the office of the county

clerk a claim of lien for any unpaid amount due and assessed against a tract or parcel of land.

D. Any tract or parcel so assessed shall not be relieved from the assessment or lien by the sale of the tract or parcel of land for taxes or any other assessment, subject to the provisions of Section 39-119 of this title. The statute of limitations shall not begin to run against an assessment until after the last installment of the assessment becomes due.

E. The fact that an improvement is omitted in front of any tract or parcel of land does not invalidate a lien or assessment made against any other tract or parcel of land.

F. A delinquent installment of an assessment shall be foreclosed and the tract or parcel of land concerned be sold in the manner provided by law for foreclosure of mortgages on land. If, at the sale, there is no better bidder for the tract or parcel of land the municipality shall bid in the tract or parcel of land for the amount due on the assessment plus any interest, penalties or costs which have accrued against the assessment. Any real estate sold under any order, judgment or decree of court to satisfy the lien may be redeemed by the owner or his assignee at any time within one (1) year of the date of sale by paying to the purchaser thereof or assignee the amount paid with interest from the date of purchase at the rate of twelve percent (12%) per annum.

Added by Laws 1978, c. 233, § 12, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 9, eff. Nov. 1, 2007.

§11-39-113. Use of revenues.

A. All money received by the city from any special assessment or assessment within a district shall be held in a special fund and used to:

1. Pay the cost of the improvement for which the assessment was made;

2. Reimburse the city for any work performed or cost incurred by the city in constructing the improvement; or

3. Pay the interest and principal due on any outstanding negotiable bonds, including replenishment of debt service reserves, reimbursements to bond insurers or other providers of credit enhancement, and other payments required in connection with bonds issued to pay for improvements.

B. Any person who uses money in a district fund other than as provided in this section is guilty of a felony and shall be punished by a fine not exceeding One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment, in the discretion of the court.

Added by Laws 1978, c. 233, § 13, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 23, eff. July 1, 1983; Laws 1997, c.

133, § 129, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 58, eff. July 1, 1999; Laws 2007, c. 362, § 10, eff. Nov. 1, 2007.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 129 from July 1, 1998, to July 1, 1999.

§11-39-114. Transfer of revenues to general fund.

The governing body may transfer to the general fund of the city any money obtained from the levy of an assessment for a district if:

1. Bonds were issued to finance the improvement; and

2. The funds obtained by the bonds were spent for the improvement; and

3. The assessments were levied and collected for the payment of the bonds; and

4. Either the bondholders are barred by the statute of limitations or a court judgment or decree from collecting the indebtedness; or

5. The bonded indebtedness has been paid.

Added by Laws 1978, c. 233, § 14, emerg. eff. April 25, 1978.

§11-39-115. Bonds.

A. To pay all or any part of the cost of the improvement, the governing body may issue, in the name of the city or a public trust entity acting on behalf of the city, bonds in one or more series and in amounts not exceeding the total cost of the improvement financed by each series, including costs of issuance, capitalized interest, funding of reserves, premiums for reserve surety bonds, and obtaining bond insurance, letters of credit or other credit enhancement or liquidity instruments in connection with each series. If the bonds recite that:

1. The proceedings relating to making the improvement and levying the assessments to pay for the improvement have been done in compliance with law; and

2. All prerequisites to the fixing of the assessment lien against the tract or parcel of land benefited by the improvement have been performed;

such recital shall be conclusive evidence of the facts recited.

B. The bonds shall:

1. Recite the terms and conditions for their issuance;

2. Be payable from the money collected from the assessment authorized in Section 39-111 of this title;

3. Bear a rate of interest not less than two percent (2%) of the rate of interest on the deferred installments of the assessment; and

4. Mature not later than thirty (30) years after the date of issuance of the bonds of a particular series.

C. Payment of the bonds issued for a storm sewer, lighting, street, alley, curb, gutter or sidewalk improvement may be supplemented from gasoline tax money remitted by the State of

Oklahoma on or before a date not more than twelve (12) months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed. Payment of the bonds issued for a water, sewer, gas, electric or other improvement may be supplemented from the funds received by the water, sewer, gas, electric or other facility on or before a date not more than twelve (12) months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed.

D. The bonds may be issued to the contractor in payment for the construction of the improvement or may be issued and sold:

1. In payment of the city's proportion of the cost of the improvement;

2. In payment of the proportionate cost if the improvement is done in cooperation with another governmental agency;

3. In payment of the construction of the improvement done under contract; or

4. In reimbursement to the city if the city constructed the improvement with city owned or leased equipment and city employees.

E. Any city may contract for the issuance and sale of bonds or assignable certificates.

F. Bonds or assignable certificates may be sold at a public or private sale at a discount.

G. After the passage of thirty (30) days from the publication of the ordinance or resolution authorizing the issuance of district bonds, any action attacking the validity of any proceedings had or taken by the governing body of the city preliminary to and in the authorization and issuance of the bonds described in the notice is perpetually barred.

Added by Laws 1978, c. 233, § 15, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 24, eff. July 1, 1983; Laws 2007, c. 362, § 11, eff. Nov. 1, 2007.

§11-39-116. Duty of city relative to assessments and bonds - Personal liability.

A. Whenever a district has been created and bonds have been issued to finance the improvement, a city shall either itself, or acting through a third party administrator:

1. Collect the assessments annually or semiannually;

2. Act as trustee for the benefit of the holders of the bonds; provided that, the city may contract with a bank with trust powers to act as trustees;

3. Annually prepare a statement which shall:

   a. be available for inspection in the office of the city treasurer,

   b. reflect the financial condition of the district,

   c. list all the delinquencies existing at that time, and

d. institute proceedings to foreclose the assessment lien against any tract or parcel of land which is delinquent in the payment of the assessment or installment of an assessment for a period of more than one (1) year. In lieu of the foreclosure of a lien against any tract or parcel of land which is delinquent in the payment of an assessment or installment of an assessment for a period of more than one (1) year, a city may accept a deed to the property subject to the lien if the owner of the property tenders the deed to the municipality.

B. If more than one district is created, the money from assessments in each district shall be kept in a separate fund and used for the payment of principal and interest of the bonds outstanding against that district. Nothing herein shall prevent the appointment and compensation by the district of a registrar, transfer, authenticating, paying or other agents to effect the transfer of ownership, change of payee of any bond issued by the district and to maintain books and records relating thereto.

C. Neither any member of the governing body of a city creating a district nor any person acting on behalf of the city or district, while acting within the scope of his or her authority, shall be subject to any personal liability for any action taken or omitted within that scope of authority.

Added by Laws 1978, c. 233, § 16, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 25, eff. July 1, 1983; Laws 2007, c. 362, § 12, eff. Nov. 1, 2007.

§11-39-117. Delinquent assessment or installment - Rights and remedies for collection of assessment.

A. If the governing body fails or refuses to foreclose and sell a tract or parcel of land for the delinquent assessment or installment of the assessment as required in Section 39-116 of this title, any holder of a bond secured by the assessment may foreclose the assessment lien on such delinquent property in the manner provided by law for the foreclosure of mortgages on real estate.

B. Whenever a governing body, board of county commissioners or local board of education is delinquent in the payment of an assessment, the holder of any bonds issued against the tract or parcel of land of the city, county or school district has the rights and remedies for the collection of the assessment as are given by law for the collection of judgments against cities, counties and school districts.

Amended by Laws 1983, c. 170, § 26, eff. July 1, 1983.

§11-39-118. Duties of trustees in foreclosure actions.

In any action seeking the foreclosure of a lien against any tract or parcel of land assessed by a city for the construction of any

improvement after bonds have been issued, the trustee of the fund from which the bonds are to be paid may:

1. Purchase the tract or parcel of land sold at the foreclosure sale; or

2. Bid, in lieu of cash, the full amount of the assessment and interest found by the court to be due and payable under the ordinance creating the lien and any cost taxed by the court in the foreclosure proceedings against the property ordered sold.

Amended by Laws 1983, c. 170, § 27, eff. July 1, 1983.

§11-39-119. Title to property in trustee.

Upon the acceptance or purchase of the tract or parcel of land as provided in Sections 39-116 and 39-118 of this title, title to the tract or parcel of land, subject to the right of redemption as provided by law, shall vest in the trustee of the fund from which the bonds are payable.

Amended by Laws 1983, c. 170, § 28, eff. July 1, 1983.

§11-39-120. Sale of property by trustee.

A. After expiration of the period of redemption of the tract or parcel of land foreclosed, the trustee may apply to the district court which ordered the property sold for an order authorizing the trustee to sell the property at private sale.

B. After the filing of the application of the trustee, the district court shall appoint three (3) disinterested persons to appraise the property sought to be sold and return the appraisement to the court. After the appraisement is filed in the district court, the district court shall, if it deems the appraisement to be fair, enter an order authorizing and directing the trustee to sell and convey to the purchaser the tract or parcel of land being sold. The tract or parcel of land shall not be sold at private sale except for cash and for no less than the value determined by the appraisers.

C. If the trustee is unable to sell the tract or parcel of land at its appraised value, the trustee may apply to the district court which ordered the property sold for an order authorizing the trustee to sell for cash the tract or parcel of land foreclosed to the highest and best bidder subject to the approval of the district court. If the court determines that the property cannot be sold at its appraised value, the court may enter an order directing the public sale of the property.

D. After the sale of the foreclosed tract or parcel of land at either a private sale or a public sale, approved by the court, the trustee shall:

1. Deduct the costs of the sale and costs taxed against the tract or parcel of land in the sale proceedings; and

2. Pay the remainder of the proceeds into the proper district fund for payment of the interest and the bonds. In case of the sale

of any tract or parcel of land subject to more than one delinquent assessment, such remaining proceeds shall be distributed into the proper district funds for such payment pro rata based upon the total unpaid amount due each such district.
Amended by Laws 1983, c. 170, § 29, eff. July 1, 1983.

§11-39-121. Purpose of act.
The Improvement District Act is intended to afford another and additional method of making improvements and is not to be construed as repealing or qualifying any other charter or statutory authorization granting a city authority to make improvements.
Added by Laws 1978, c. 233, § 21, emerg. eff. April 25, 1978.

§11-40-101. Short title.
This act shall be known and may be cited as the "Neighborhood Redevelopment Act".
Added by Laws 1981, c. 315, § 1. Amended by Laws 1998, c. 247, § 1, eff. Nov. 1, 1998.

§11-40-102. Purpose of act.
It is declared to be the purpose of the Neighborhood Redevelopment Act to promote, stimulate, and develop the general and economic welfare of this state and its communities and to assist in the development and redevelopment of commercial, industrial and residential neighborhoods, thus promoting the general welfare of the citizens of this state, by authorizing cities and towns to establish redevelopment trust authorities, and to authorize such authorities to undertake redevelopment activities within such neighborhoods. The powers conferred by the Neighborhood Redevelopment Act are for public uses and purposes for which public money may be expended and the power of eminent domain exercised. The necessity in the public interest for the provisions enacted as the Neighborhood Redevelopment Act is hereby declared as a matter of legislative determination. The municipal governing body may do all things necessary and proper in its discretion pursuant to the authority granted to it by the Constitution and laws of this state to redevelop and maintain its commercial, industrial and residential neighborhoods.
Added by Laws 1981, c. 315, § 2. Amended by Laws 1984, c. 126, § 70, eff. Nov. 1, 1984; Laws 1998, c. 247, § 2, eff. Nov. 1, 1998.

§11-40-103. Procedure for application of act - Limitations.
A. No city or town shall exercise any of the powers conferred by this act unless the governing body of such city or town shall have adopted a resolution finding that all or a portion of the commercial, industrial or residential neighborhood seeking to be redeveloped contains blighted conditions and the conservation, development or

redevelopment of such area is necessary to promote the general and economic welfare of such city or town.

B. The powers conferred upon cities and towns under the provisions of this act shall be exercised only in commercial, industrial or residential neighborhoods of cities and towns, as determined by resolution adopted pursuant to Section 40-104 of this title.

Added by Laws 1981, c. 315, § 3. Amended by Laws 1998, c. 247, § 3, eff. Nov. 1, 1998.

§11-40-104. Redevelopment plan - Procedure for adoption.

A. Any city or town proposing to undertake the redevelopment of a commercial, industrial or residential neighborhood in accordance with the provisions of this act shall first prepare a redevelopment plan in consultation with the planning commission of the city. The redevelopment plan shall include:

1. A description and map of the boundaries of the redevelopment district being proposed;

2. A summary of the blighted conditions which justify the creation of such district;

3. A delegation of authority to a public trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes, specifying the name of the redevelopment trust which will undertake the redevelopment activities on behalf of such city or town. If no redevelopment trust is then in existence, the redevelopment plan shall include a copy of the trust indenture or other document creating the redevelopment trust;

4. A summary of the types of redevelopment activities and projects which may be undertaken by the redevelopment trust; and

5. Such other information as deemed by the governing body necessary to advise the public as to the intent of the plan.

B. Any redevelopment plan undertaken in accordance with the provisions of this act shall fix a date on which the redevelopment plan shall terminate, which date shall be not more than twenty-five (25) years from the date the plan was adopted.

C. Thereafter, the governing body of the city shall adopt a resolution stating that the city is considering the adoption of a redevelopment plan. The resolution shall:

1. Give notice that a public hearing will be held to consider the adoption of the redevelopment plan, and fix the date, hour and place of such public hearing;

2. Describe the boundaries of the district being proposed; and

3. State that the redevelopment plan is available for inspection during regular office hours in the office of the city clerk.

D. The date fixed for the public hearing shall be not less than thirty (30) days nor more than seventy (70) days following the date of the adoption of the resolution fixing the date of such hearing.

E. A copy of the redevelopment plan, along with a resolution providing for the public hearing, shall be delivered to the county commissioners of any county and the board of education of any school district levying taxes on property within the proposed redevelopment district. The resolution shall be published in a newspaper of general circulation within the city or town as a legal, public notice once each week for three (3) consecutive weeks, the last publication to be not less than one (1) week and not more than two (2) weeks preceding the date fixed for public hearing. A sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included within the redevelopment district shall be published with the resolution.

F. At the public hearing, a representative of the city shall present the city's proposed redevelopment plan. Following such explanation, all interested persons shall be given an opportunity to be heard. The governing body may for good cause shown recess the hearing to a time and date certain which shall be fixed in the presence of persons in attendance at the hearing.

G. Following the hearing, the governing body may adopt the redevelopment plan by ordinance passed upon a two-thirds (2/3) vote. Such ordinance may include an acceptance of beneficial interest in any redevelopment trust being created pursuant to the terms of a redevelopment plan.

H. Thereafter, any substantial changes to the redevelopment plan as adopted shall be subject to public hearing following publication of notice thereof at least twice in a newspaper of general circulation within the city or town.

Added by Laws 1981, c. 315, § 4. Amended by Laws 1998, c. 247, § 4, eff. Nov. 1, 1998.

§11-40-105. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-105.1. Proposed program plan - Resolution - Notice and hearing - Approval by municipality.

A. Following adoption of the ordinance described in Section 40-104 of this title, the redevelopment trust named in such ordinance shall thereafter develop a comprehensive approach to remedy those blighted conditions which were found to exist within the redevelopment district. This comprehensive approach shall consist of one or more program plans designed to address the blighted conditions within such redevelopment district. Before the adoption of a program plan requiring the acquisition of land, the redevelopment trust shall provide to the city a feasibility study, which study shall show that the benefits derived from the program plan will exceed the costs and that the income there from will be sufficient to pay for the program plan.

B. Prior to the adoption of a program plan, a redevelopment trust shall adopt a resolution relating to the proposed program plan, which resolution shall:

1. State that a public hearing will be held to consider the adoption of a program plan, and fix the date, hour and place of such public hearing;

2. Describe the geographic boundaries of the area to which such program plan relates; and

3. State that the program plan, including a summary of any feasibility study, relocation assistance plan, financial guarantees of a prospective developer, if applicable, and a description and map of the area to be redeveloped are available for inspection during regular office hours in the office of the city clerk.

C. The date fixed for the public hearing shall be not less than ten (10) days nor more than thirty (30) days following the date of the adoption of the resolution fixing the date of such hearing. The resolution shall be published in a newspaper of general circulation within such city or town as a legal, public notice once each week for two (2) consecutive weeks, the last publication to be not more than two (2) weeks preceding the date fixed for public hearing. If a program plan provides for the use of eminent domain pursuant to Section 40-115 of this title, then a summary of the program plan shall be mailed by certified mail to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of the resolution. A statement shall be included in the summary of the program plan that the program plan is available for inspection and copying during regular office hours in the office of the city clerk.

D. Following the hearing, the trustees of the redevelopment trust may, by resolution, adopt the program plan as originally proposed, or may adopt the program plan with such amendments as deemed appropriate by the trustees of the redevelopment trust. Thereafter, any substantial changes to a program plan, as adopted, shall be subject to public hearing following publication of notice thereof at least twice in a newspaper of general circulation within such city or town.

E. After the adoption of a program plan, or any substantial change to a program plan, the governing body of such municipality, upon a finding by the planning commission that the program plan, or any substantial change to the program plan is consistent with the general comprehensive plan for the development of the city, may approve the program plan, or any substantial change to the program plan, as being consistent with the comprehensive general plan for the development of the city. Thereafter, a redevelopment trust may undertake specific redevelopment projects; provided, that:

1. Such projects are undertaken pursuant to a project plan which clearly sets forth the actions being taken by the redevelopment trust with regard to a specific parcel or lot;

2. Such projects are undertaken within the period of time specified in the program plan; and

3. The terms and conditions relating to such projects are consistent with the terms and conditions of the program plan.

Added by Laws 1998, c. 247, § 5, eff. Nov. 1, 1998. Amended by Laws 2008, c. 367, § 9, eff. Nov. 1, 2008.

§11-40-106. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-106.1. Powers of redevelopment trust.

In order to carry out the purposes of this act, and any redevelopment plan adopted by a city or town pursuant hereto, a redevelopment trust may exercise all powers of a public trust pursuant to the provisions of Sections 176 et seq. and 175.1 et seq. of Title 60 of the Oklahoma Statutes.

Added by Laws 1998, c. 247, § 6, eff. Nov. 1, 1998.

§11-40-107. Application of Title 60, Section 178.4.

The provisions of Section 178.4 of Title 60 of the Oklahoma Statutes regarding retail outlets and residential enterprises and functions shall not apply to any redevelopment trust operating pursuant to a duly adopted redevelopment plan.

Added by Laws 1981, c. 315, § 7. Amended by Laws 1998, c. 247, § 7, eff. Nov. 1, 1998.

§11-40-108. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-108.1. Bonds or notes - Pledge of revenues.

A redevelopment trust operating pursuant to a duly adopted redevelopment plan may issue tax apportionment bonds or notes in accordance with the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as amended, and may receive and pledge revenues derived from the apportionment of ad valorem taxes as provided in Sections 861 and 862 of Title 62 of the Oklahoma Statutes.

Added by Laws 1998, c. 247, § 8, eff. Nov. 1, 1998.

§11-40-109. Relocation assistance plan.

Before any redevelopment project shall be initiated under this act, a relocation assistance plan shall be approved by the redevelopment trust proposing to undertake the project. Such relocation assistance plan shall:

1. Provide for relocation payments to be made to persons, families and businesses who move from real property or who move

personal property from real property as a result of the acquisition of the real property by the city in carrying out the provisions of this act, the plan to specify the time and manner of any such payments agreed to;

2. Provide that no persons or families residing in the project area shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents within their ability to pay. Such housing units shall be suitable to the needs of such displaced persons or families and must be a decent, safe, sanitary and otherwise standard dwelling;

3. Provide for the payment of any damages sustained by a retailer by reason of the liquidation of inventories necessitated by relocation; and

4. Provide for conformance with requirements promulgated under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Added by Laws 1981, c. 315, § 9. Amended by Laws 1998, c. 247, § 9, eff. Nov. 1, 1998.

§11-40-110. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-111. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-112. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-113. Definitions.

The following terms, whenever used or referred to in this act, shall, unless a different intent clearly appears from the context, be constructed to have the following meaning:

1. "Blighted conditions" means conditions which, because of the presence of a majority of the following factors, substantially impair or arrest the sound development and growth of the municipality or constitute an economic or social liability or are a menace to the public health, safety, morals or welfare in its present condition and use:

a. a substantial number of deteriorated or deteriorating structures,
b. predominance of defective or inadequate street layout,
c. unsanitary or unsafe conditions,
d. deterioration of site improvements,
e. absentee ownership,
f. tax or special assessment delinquency exceeding the fair value of the land,
g. defective or unusual conditions of title,
h. improper subdivision or obsolete platting or land uses,
i. the existence of conditions which endanger life or property by fire and other causes, or

j. conditions which create economic obsolescence, or areas containing obsolete, nonfunctioning or inappropriately developed structures;

2. "Governing body" means the city council, city commission or town board of trustees;

3. "Neighborhood" means a contiguous geographic area within a city or town that is characterized by a predominant building style or function, and may apply to residential, commercial or industrial areas;

4. "Program plan" means a plan for the redevelopment of all or a portion of a redevelopment district, which the governing body of a city or town has found to contain blighted conditions, so that the clearance, replatting, rehabilitation or reconstruction thereof is necessary to effectuate the purposes of this act;

5. "Project plan" means a specific work or improvement to effectuate all or a portion of a program plan;

6. "Redevelopment" shall mean the clearance, planning, construction, rehabilitation, or renovation of all or a portion of a redevelopment district, and the provision for such industrial, commercial, retail, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto;

7. "Redevelopment district" means that portion of a city or town which the governing body of such city or town has found to contain blighted conditions;

8. "Redevelopment plan" means a plan for the redevelopment of all or a portion of a redevelopment district; and

9. "Redevelopment trust" means a public trust established in accordance with Section 176 et seq. of Title 60 of the Oklahoma Statutes which has the power to undertake redevelopment activities. Added by Laws 1981, c. 315, § 13. Amended by Laws 1998, c. 247, § 10, eff. Nov. 1, 1998.

§11-40-114. Repealed by Laws 1998, c. 247, § 12, eff. Nov. 1, 1998.

§11-40-115. Eminent domain - Lien foreclosure.

A. A redevelopment trust shall have the right to acquire by the exercise of the power of eminent domain any real property in fee simple or other estate which is necessary to accomplish the purposes of this act, when so approved by the governing body.

B. A redevelopment trust may exercise the power of eminent domain in the manner provided in Sections 9 through 14 of Title 27 of the Oklahoma Statutes; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provision for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to any city, county, public trust or the

state or any political subdivision thereof may be acquired without its consent.

C. In the event of the sale or other disposition of real property of any redevelopment trust by reason of the foreclosure of any mortgage or other lien, through insolvency or bankruptcy proceedings, by order of any court of competent jurisdiction, by voluntary transfer or otherwise, the purchaser of such real property of such redevelopment trust shall continue to use, operate and maintain such real property in accordance with the provisions of any project plan.

Added by Laws 1981, c. 315, § 15. Amended by Laws 1998, c. 247, § 11, eff. Nov. 1, 1998.

§11-41-101. Survey and plat for subdivisions or proposed municipality.

A person intending to lay out a municipality or an addition or subdivision shall cause a survey and plat to be made of the land which is to be laid out. The plat shall particularly describe and set forth all streets, alleys, easements, commons or public grounds, all lots and blocks, and fractional lots within or adjoining the land, and give their names, width, courses, boundaries, and extent.

Laws 1977, c. 256, § 41-101, eff. July 1, 1978.

§11-41-102. Lots to be numbered and described in plat.

All lots shall be numbered in progressive numbers, and their precise length and width shall be stated on the plat or map, together with any streets, alleys, or roads which divide or border the lots. Angles or bearings shall be given on all block lines and lot lines not parallel to block lines.

Laws 1977, c. 256, § 41-102, eff. July 1, 1978.

§11-41-103. Base line - How formed.

At the time of surveying and platting, the owner of the municipality, addition or subdivision of lots and blocks, or his agent, shall form the base line from which future surveys are to be made. The base line shall be formed by placing on the line of a street two good and sufficient monuments of such size and dimension as the surveyor shall direct. The point or points where the base line may be found shall be distinguished on the plat or map.

Laws 1977, c. 256, § 41-103, eff. July 1, 1978.

§11-41-104. Plats must be certified and acknowledged.

When the plat or map is completed, it shall be certified by a registered land surveyor who has prepared it and the landowner. At or before the time of offering the plat or map for record, the plat or map must be acknowledged before some person authorized to take acknowledgment of deeds. A certificate of such acknowledgment shall

be endorsed on the plat or map. The certificate of the survey and acknowledgment shall also be recorded and form a part of the record. Added by Laws 1977, c. 256, § 41-104, eff. July 1, 1978. Amended by Laws 2011, c. 98, § 2.

§11-41-105. Certificate as to payment of taxes required before plat is recorded.

A. No plat or map may be accepted for record or be recorded by the county clerk unless it bears the certificate of the county treasurer of the county in which the tract or parcel of land is located, certifying that:

1. All taxes for all previous years, which taxes have been levied against the tract or parcel of land involving the plat, including improvements thereon, have been paid; and

2. All taxes for the year during which the plat or map is offered for record, which taxes shall be levied against the land to be platted, excluding improvements thereon, have been paid; provided, if the plat to be certified is a replat, or a plat within a plat, the requirement set forth herein shall only apply to the extent that the boundaries of the tracts or parcels of land which are the subject of the replat or plat vary from the original plat.

B. The county assessor of the county in which the land to be platted is located shall determine the taxes due for the year during which the plat is offered for record based on the assessed value of the land to be platted, excluding all improvements thereon; shall place the tax so determined on the tax rolls for that year; and shall notify the county treasurer of such taxes due. In the event the taxes due have not been determined by the county assessor as required in this section or the county treasurer has not been notified of the taxes due on the land to be platted, excluding all improvements thereon, then the owner of the property to be platted, whether in whole or in part, or his agent submitting the plat for record, shall make a security deposit in cash with the county treasurer or a bond executed by a bonding company authorized to do business in the State of Oklahoma. The security deposit or bond shall be in an amount equal to:

1. The sum charged upon the last tax rolls in the office of the county treasurer against the tract or parcel of land involving the plat, whether in whole or in part, excluding all improvements thereon; and

2. Twenty-five percent (25%) of the sum of such taxes as assurance against increase of tax charges for the taxable year in which the plat is offered.

The security deposit or bond shall be held by the county treasurer until the tax rolls for the county have been made up for the taxable year and the tax charge against the tract, excluding all improvements thereon, has become fixed. Upon the payment of all the tax so

charged, or applied thereto out of the cash deposit, the remainder of the deposit shall be refunded or the bond released.
Added by Laws 1977, c. 256, § 41-105, eff. July 1, 1978. Amended by Laws 2004, c. 50, § 1, eff. Nov. 1, 2004.

§11-41-106. Approval by municipal governing body before plat is recorded.

Before any plan, plat or replat of land within the corporate limits of a municipality shall be entitled to record in the office of the county clerk, it must be approved by the municipal governing body. No plan, plat or replat may be received or recorded in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the municipal governing body. The disapproval of any plan, plat or replat by the municipal governing body shall be deemed a refusal of any proposed dedication shown thereon.
Laws 1977, c. 256, § 41-106, eff. July 1, 1978.

§11-41-107. Fees of surveyor and register - Where recorded.

The surveyor who shall lay out, survey and plat any municipality, addition or subdivision shall be entitled to receive proper compensation for his services. The county clerk of the county in which the property is situated shall receive fees as set forth in Section 32 of Title 28 of the Oklahoma Statutes. The original of the plat and survey shall be retained by the county clerk of the county in which the property is situated, and recorded into a plat book to be provided for that purpose.
Laws 1977, c. 256, § 41-107, eff. July 1, 1978.

§11-41-108. Plat record specifications.

Any plat submitted for recording shall have the following specifications:

1. The dimensions of the plat shall be twenty-four (24) by thirty-six (36) inches or shall be a size that can be properly and conveniently folded to these dimensions and shall be drawn to a minimum scale of one hundred (100) feet to the inch; except that plats in which all lots contain a net area in excess of forty thousand (40,000) square feet, the plat may be drawn to a scale of two hundred (200) feet to the inch;

2. The drawing surface of the plat shall have a binding margin of two (2) inches at the left side of the plat, a margin of not less than one (1) inch at the right side, and a margin of not less than one and one-half (1 1/2) inches at the top and bottom;

3. The original tracing of each plat and two prints thereof and a reduced copy in the dimensions of eight and one-half (8 1/2) inches by eleven (11) inches shall be presented for recording;

4. The original plat shall be an original drawing made with india ink on a good grade linen tracing cloth, or with a suitable black acetate base ink on a stable polyester base film coated upon completion with a suitable plastic material to prevent flaking and to assure permanent legibility, or a print on a stable polyester base film made by photographic processes from a film scribing tested for residual hypo with an approved hypo testing solution to assure permanency;

5. Marginal lines, standard certificates and approval forms may be printed or legibly stamped on the plat with permanent opaque black ink when permitted by local ordinance; and

6. The county clerk may require one of the prints to be a blueprint cloth and the other print to be a photographic matte film positive.

Added by Laws 1977, c. 256, § 41-108, eff. July 1, 1978. Amended by Laws 2007, c. 132, § 1, eff. Nov. 1, 2007.

NOTE: Laws 2007, c. 100, § 1 repealed by Laws 2008, c. 3, § 8, emerg. eff. Feb. 28, 2008.

§11-41-109. Donations and grants shown on plat deemed conveyances - Title to streets, alleys, etc.

When the plat or map has been completed and certified, acknowledged, approved and recorded as required by Sections 41-104 through 41-108 of this title, every donation or grant to the public, or to any individual, any religious society, or to any corporation or body politic, marked or noted as such on the plat or map, shall be deemed in law and equity a sufficient conveyance to vest the fee simple of the tract or parcel of land as expressed in the plat or map. Such conveyance shall be considered for all intents and purposes a general warranty against the donor, his heirs or representatives, to the donee or grantee, for his use for the uses and purposes named in the plat or map, expressed and intended, and no other use and purpose whatever. The land intended to be used for the streets, alleys, ways, commons or other public uses in any municipality or addition thereto shall be held in the municipality's corporate name in trust to and for the use and purposes set forth and expressed or intended.

Added by Laws 1977, c. 256, § 41-109, eff. July 1, 1978.

§11-41-110. Lands already laid out under prior law.

When a municipality, addition or subdivision has been laid out and lots sold, and a plat or map of the land has not been acknowledged and recorded in conformity with laws heretofore in force, then the county commissioners or a majority of them in the county where the land is situated, or the owner who has laid out the land, or his legal representatives, shall prepare the plat or map and have it acknowledged and recorded in the proper county, in the form

and manner required by Sections 41-104 through 41-108 of this title. The plat or map shall particularly describe the donation of lands or otherwise to individual societies, bodies politic, or for common or public purposes. The plat or map shall conform with the requirements of current law, except that if the lots have been numbered differently and sales made, and they cannot be easily renumbered to conform with the law, then the lots shall be returned as originally stated.
Laws 1977, c. 256, § 41-110, eff. July 1, 1978.

§11-41-111. Penalty for sale of lots before compliance.
No person, firm or corporation shall dispose of, offer for sale, or lease for any time any lots or blocks in any municipality, addition or subdivision, or part thereof, which are hereafter laid out, before all the requirements of Sections 41-104 through 41-108 of this title have been complied with.
Laws 1977, c. 256, § 41-111, eff. July 1, 1978.

§11-41-112. Correction of errors in plats and conveyances - Petition to district court.
The district court in the county in which the property is situated shall have the jurisdiction to correct municipal plats and plats of additions and subdivisions. The owner of any lot within the portion of the plat sought to be corrected may file his petition in the district court to correct the plat, or any portion thereof, when the same has been erroneously made by duplicating lot numbers in any block or incorrectly describing the distances on the plat or when the same is, in any manner, incorrect in description or otherwise. The court may correct the description of property in any conveyance of any lot, where the plat is corrected, which may be necessary for the purpose of making a complete and correct descriptive chain of title to the lot.
Laws 1977, c. 256, § 41-112, eff. July 1, 1978.

§11-41-113. Parties to suit in correcting plat errors.
A. If the object of the petition is to correct one (1) block of the plat, or any portion thereof, the petition shall name as parties defendant the record owners, as of the time of commencing the suit, of all the lots within the block sought to be corrected. The municipality within which the plat is located shall be made a party to the suit if the streets and alleys of the municipality will be affected by the correction.
B. If the object of the petition is to correct a greater portion than one (1) block of the plat, then the petition shall name as parties defendant:
1. The record owners, as of the time of commencing the suit, of the lots within the area sought to be corrected; and

2. The municipality within which the plat is located.
Laws 1977, c. 256, § 41-113, eff. July 1, 1978.

§11-41-114. Action to correct plat errors - Service of summons and notice.

Service of summons in the action shall be had upon the defendants in the manner provided by law in civil actions. Where the record owners are numerous, however, the action may be maintained in the name of one or more lot owners for the benefit of all the owners of property within the area of that portion of the plat affected by the proposed correction. In addition to service of process to those record owners in whose name the action is maintained, the petitioner shall also give notice by mail to the following, without naming them as parties defendant:

1. All owners of record, as shown by the current year's tax rolls in the office of the county treasurer, of lots within the block or area sought to be corrected; and

2. The municipality within which the plat is located.

The notice shall set out the error sought to be corrected and the manner which is proposed for correcting the error as prayed for in the petition.
Laws 1977, c. 256, § 41-114, eff. July 1, 1978.

§11-41-115. Correction of errors and defects in recorded plats - Procedure.

A. Municipal plats or plats of additions and subdivisions which have been erroneously described on any record in the chain of title to said plats, or are otherwise defective on their face, may be corrected pursuant to the provisions of this section or pursuant to the provisions of Sections 41-112 through 41-114 of this title.

B. If a municipal plat or plat of an addition or subdivision which is executed and filed in the office of the county clerk of the county in which said plat is located fails to identify or correctly describe the land to be platted, the registered land surveyor who prepared said plat may execute a certificate stating the nature of the error and cure said defect. The surveyor shall refer to said plat by correct page number and book in which said plat is recorded by the county clerk. Said certificate shall be dated and signed by said registered land surveyor.

C. If the registered land surveyor who originally certified said plat pursuant to the provisions of Section 41-104 of this title is not available, or if said plat was not prepared by a registered land surveyor, a certificate as provided for in subsection B of this section may be executed by any registered land surveyor, provided said certificate states the reasons why the registered land surveyor who prepared the plat was not available or that said plat was not originally prepared by a registered land surveyor.

D. Prior to recording the correction certificate in the office of the county clerk of the county in which said plat is located, the certificate shall be approved by the planning commission or other governmental body having jurisdiction, provided that such certificate shall be approved by the municipal governing body if the correction alters or otherwise affects a right-of-way or easement of the municipality.

E. The certificate authorized by the provisions of this section shall be retained by the county clerk of the county in which said plat is located and shall be recorded as a correction in the county plat book.

F. A certificate filed pursuant to the provisions of this section shall be prima facie evidence of the statements contained in said certificate and shall be received into evidence for that purpose. No such certificate shall have the effect of destroying or changing any vested rights which were acquired based upon an existing plat despite the errors or defects contained in said plat. The provisions of this section shall not prohibit any interested party from commencing an action in the district court of the county in which the plat is located pursuant to the provisions of Sections 41-112 through 41-114 of this title.

Added by Laws 1983, c. 35, § 1, eff. Nov. 1, 1983. Amended by Laws 1985, c. 12, § 1, emerg. eff. April 11, 1985.

§11-42-101. Definitions.

In Sections 42-101 through 42-115 of this title, the following terms shall have the meanings respectively provided for them in this section, unless the context otherwise requires:

1. "Close" means a legislative act of the governing body of a municipality discontinuing the public use of a public way or easement without affecting title to real property;

2. "Vacate" means the termination, by written instrument, as provided in Section 42-106 of this title, or judicial act of the district court, of private and/or public rights in a public way, easement or plat and vesting title in real estate in private ownership;

3. "Public way" means a street, avenue, boulevard, alley, lane or thoroughfare open for public use; and

4. "Easement" means rights in real property as set forth in Section 49 of Title 60 of the Oklahoma Statutes.

Laws 1977, c. 256, § 41-101, eff. July 1, 1978.

§11-42-102. Application by owner for vacation of platted tract, street, alley, easement or public way - Power of district court.

A. If the owner of any tract of land platted for municipal purposes, or the owner of any portion of such platted tract, desires to vacate the whole or some part thereof, or desires to vacate a

platted street, alley, easement or portion thereof, the owner shall file a verified application setting forth his current address and briefly stating the reason for vacating, in the district court in the county where the land is located.

B. Notwithstanding provisions in subsection A of this section, if the owner of any tract of land platted for municipal purposes for a public way desires to vacate some part thereof and the portion thus vacated would not obstruct the use of the balance of the tract as a street, avenue, alley, lane or thoroughfare open for public use, and which tract after vacation would remain bounded on all sides by land platted for municipal purposes, the owner may file a verified application in the district court in the county where the property is located. The district court is authorized, upon application by such owner and upon showing that previous use of the tract as a street would remain unobstructed, to alter or vacate the platted tract or any part thereof.

C. In cases where a portion of a tract is vacated but remains bounded on all sides by public ways and public grounds, title to the portion vacated shall pass to the municipality or public entity created by the municipality for the purpose of managing, developing, maintaining or leasing, for any lawful purpose, public or private, the tract so vacated. The title to said tract shall remain with the municipality or other public entity until such time as any adjacent tract comprising the public way or street is subsequently vacated and no longer used for a public purpose.

Laws 1977, c. 256, § 42-102, eff. July 1, 1978; Laws 1979, c. 236, § 1. Amended by Laws 1990, c. 194, § 1, emerg. eff. May 10, 1990.

§11-42-103. Notice of application to court for vacation - Right to resist.

A. In addition to any other requirements for notice provided by this section, notice of hearing shall be given to the public by one publication in some newspaper of general circulation in the municipality where the land is located. If there is no newspaper published in such municipality where the land is located, the publication may be in some newspaper of general circulation in the county where the land is located. Such notice shall be published at least thirty (30) days prior to the time when the application has been set for hearing by the court.

B. The court shall set a date for hearing on an application for vacation, not less than thirty-five (35) days nor more than sixty (60) days after the filing of the application. Notice of the hearing, with a copy of the application attached thereto, shall be served at least thirty (30) days prior to the date set for said hearing in the same manner as is provided for service of process in civil actions on:

1. The governing body of the municipality if the tract, street, alley, easement or portion thereof is inside the municipal limits;

2. The board of county commissioners; and

3. Any holder of a franchise and others having a special right or privilege granted by ordinance or legislative enactment to use the platted tract or portion thereof or street, alley, easement or portion thereof sought to be vacated.

C. Notice of the hearing shall be mailed by first class mail at least thirty (30) days prior to the date set for said hearing to: 1. All owners of land, as shown by the current year's tax rolls in the office of the county treasurer, within three hundred (300) feet of the tract, street, alley, easement or portion thereof sought to be vacated; and

2. All persons, firms or corporations, not otherwise required to be notified, that are known by the applicant to claim an interest or right in the tract, street, alley, easement or portion thereof sought to be vacated.

Attached to any application shall be the certificate of a bonded abstractor listing the names and mailing addresses, as reflected by the current year's tax rolls in the office of the county treasurer, of all persons required to be notified herein.

D. The municipality, county, and any holder of a franchise or other special right or privilege, or any owner of any land required by this section to be notified, may appear and oppose and resist the application if such party has filed, at least five (5) days prior to the date set for said hearing, a verified answer showing the grounds therefor. A copy of the answer shall be mailed to the applicant or applicants the date the answer is filed.

Laws 1977, c. 256, § 43-103, eff. July 1, 1978.

§11-42-104. Hearing and determination - Extent of relief.

A. If the applicant for vacation produces to the court satisfactory evidence that the service of notice, mailing, and notice of publication required by Section 42-103 of this title has been given, the court shall proceed to hear and determine the application as well as any objections thereto.

B. If the application shall be for the vacation of the entire plat, and no owner of any portion thereof or the holder of a franchise or other special right or privilege shall appear and object to such vacation, the entire plat may be vacated. If it shall appear that portions of the plat are not used or required for county or municipal purposes, or for the holder of a franchise or other special right or privilege, as platted, the court may vacate such portions thereof as will not injuriously affect the rights of owners of other portions of the plat or the public.

C. If the application shall be by the owner of a portion of the platted tract for the vacation of such portion only, or for the

vacation of a street, alley, easement or portion thereof abutting such portion, the court may vacate such portion or abutting street, alley, easement or portion thereof as will not injuriously affect the rights of owners of other portions of the plat or the public if it shall appear that:

1. The portion or abutting street, alley, easement or portion thereof desired to be vacated is either not used or not required for county or municipal purposes or for the use of the holder of a franchise or anyone having a special right or privilege granted by ordinance or legislative enactment; and accordingly, said street, alley, easement or portion thereof has been closed to the public by enactment of any ordinance or resolution;

2. The platted street, alley, easement or portion thereof on or across such portion has never been used by the public; or

3. The public has for more than ninety (90) days abandoned such by nonuser, or that the same has been enclosed and occupied adversely to the public for more than ninety (90) days, and that application has been made to the governing body of the county or municipality where the property is located at least ninety (90) days prior to the filing of the application for vacation in the district court for an ordinance or resolution closing the street, alley, easement or portion thereof to public use, but the governing body has failed, refused or neglected to enact such an ordinance or resolution.

Laws 1977, c. 256, § 42-104, eff. July 1, 1978; Laws 1979, c. 236, § 3.

§11-42-105. Rights of municipal utilities and transmission companies.

No vacation of any plat or public way, or part thereof, shall operate to invalidate or impair the right of any municipal utility or regulated transmission company to continue to possess, occupy, and use that part of the public ways, utility easements, or rights-of-way existing within the affected area and occupied and used by any municipal utility or regulated transmission company for the performance of its public service undertaking. Said easements shall be defined in any decree of vacation. The municipal utility or regulated transmission company may maintain, replace, repair, and operate its facilities, have unrestricted ingress and egress to said locations, and remove its facilities without impairment by reason of the vacation or partial vacation of any plat or public way.

Amended by Laws 1984, c. 126, § 72, eff. Nov. 1, 1984.

§11-42-106. Vacation of plat by written agreement of owners.

A. Any plat of a municipality or addition thereto or any subdivision of land may be vacated by the owners thereof at any time before the sale of any lots therein by a written instrument declaring the same to be vacated, duly executed, acknowledged or proved and

recorded in the same office with the plat to be vacated. The executing and recording of the written instrument, bearing the approval or consent of the municipality in which the plat is situated, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the public ways, commons, and public grounds laid out as described in the plat.

B. Where any lots in the plat sought to be vacated have been sold, the plat or a portion thereof may be vacated as provided in subsection A of this section, provided that the owners of sixty percent (60%) of the lots in the plat and all of the owners in the area to be vacated join in the execution of the written instrument, the instrument bears the approval of the municipality in which the plat is situated, and such action is not prohibited by any restrictive covenants encumbering the lots in plat.

C. Notwithstanding the foregoing provisions, any plat of record in the office of the county clerk in the county in which the real property is situated, for a period of not less than ten (10) years, which bears the approval of the municipality in which the real property is situated, which replats an existing plat, or a portion thereof, shall be deemed a lawful replatting of any plat, or portion thereof, thereby vacating the plat, or a portion thereof, which is replatted.

D. This section shall not be construed as applying to any of the territory included within the limits of any incorporated municipality created and organized under and by virtue of a special act of the Legislature.

Added by Laws 1977, c. 256, § 42-106, eff. July 1, 1978. Amended by Laws 1993, c. 241, § 2, eff. Sept. 1, 1993; Laws 2002, c. 74, § 1, emerg. eff. April 15, 2002.

§11-42-106.1. Amendment of restrictive covenant on property in residential addition – Creation of neighborhood association.

A. Any restrictive covenant on property contained in a residential addition may be amended if:

1. The restrictive covenant has been in existence for at least ten (10) years and the amendment is approved by the owners of at least seventy percent (70%) of the parcels contained in the addition or the amount specified in the restrictive covenant, whichever is less; or

2. The restrictive covenant has been in existence for at least fifteen (15) years and the amendment is approved by the owners of at least sixty percent (60%) of the parcels contained in the addition or the amount specified in the restrictive covenant, whichever is less.

B. Where a preliminary plat has been filed for a residential addition, the requirements of paragraphs 1 and 2 of subsection A of

this section shall include all the parcels contained in the preliminary plat.

C. In the absence of a provision providing for the amendment of the restrictive covenants of a residential addition the requirements of paragraphs 1 and 2 of subsection A of this section shall apply. A thirty-day notice of any meeting called to amend the restrictive covenants shall be provided to the owners of every parcel contained in the addition. Each parcel shall be entitled to one vote.

D. The recorded restrictive covenants on property contained in a residential addition may be amended by the addition of a new covenant creating a neighborhood association for the addition that would require the mandatory participation of the successors-in-interest of all record owners of parcels within the addition at the time the amendment is recorded. The amendment must be approved by the record owners of at least sixty percent (60%) of the parcels contained in the addition and shall be subject to the following:

1. The amendment shall provide that participation in the neighborhood association created by the amendment shall not be mandatory for persons who are record owners of parcels within the residential addition at the time the amendment is filed of record, but such participation shall be mandatory for all successors-in-interest of the record owners;

2. The amendment must provide that the concurring vote of not less than sixty percent (60%) of the record owners of parcels contained in the addition shall be necessary for the establishment or change of dues for the neighborhood association; and

3. Following approval, the amendment shall be filed of record in the office of the county clerk of the county wherein the residential addition is located against all parcels within the addition. The term amendment may apply to an existing covenant or to a new subject not addressed in existing covenants.

A thirty-day written notice of any meeting called to approve any such amendment shall be provided to the owners of every parcel contained in the residential addition. The notice of such meeting shall be published in a newspaper in the county at least fourteen (14) days before the meeting. The notice shall also be given by publication in the neighborhood newsletter. Each parcel within the addition shall be entitled to one vote. Any amendment approved and recorded pursuant to this subsection may thereafter be revoked by approval of sixty percent (60%) of the record owners of parcels within the addition.

Added by Laws 1995, c. 154, § 1, eff. Nov. 1, 1995. Amended by Laws 2002, c. 82, § 1, eff. Nov. 1, 2002.

§11-42-107. Record of vacation.

Any decree or written instrument vacating a plat or portion thereof shall be filed and recorded in the office of the county clerk

in the county where the land is situated and shall include a metes and bounds legal description of the area being vacated and a separate metes and bounds legal description of the area, if any, remaining platted. The clerk shall write in plain, legible letters across that part of the plat so vacated the word "Vacated". The county clerk shall provide a copy of the metes and bounds legal description of the property being vacated as furnished by the petitioner to the county assessor. The clerk shall also note on the original plat a reference to the decree or instrument and the volume and page where recorded.
Added by Laws 1977, c. 256, § 42-107, eff. July 1, 1978. Amended by Laws 2005, c. 116, § 1, eff. Nov. 1, 2005.

§11-42-108. Vacating part of a plat - Closing highways.

Any part of a plat may be vacated in accordance with the procedures and subject to the conditions of Sections 42-101 through 42-115 of this title, provided that such vacating does not abridge or destroy any of the rights and privileges of other owners in the plat. Nothing contained in this section shall authorize the closing or obstructing of any public highway laid out according to law.
Laws 1977, c. 256, § 42-108, eff. July 1, 1978.

§11-42-109. Replatting of vacated plat - Effect on rights-of-way and restrictive covenants - Reversion of fee.

A. The owner of any lot in a plat which has been vacated by decree or written instrument may cause the same and a proportionate part of adjacent public ways and public grounds to be replatted and numbered by a registered land surveyor. The owner of any platted lot or lots may replat the lot or lots without necessity of vacating the initial plat or applicable portion thereof if such action is not prohibited by any restrictive covenants encumbering the lots. A replat shall not be deemed a vacation of the initial plat nor affect any preexisting public ways, utility easements or rights-of-way. A replat or a vacation of a plat shall not be deemed a termination of any restrictive covenants which are otherwise enforceable. When a replat is acknowledged by the owner and bears the approval of the municipality in which the plat is situated and is recorded in the office of the county clerk of the county in which the plat is located, the lots may be conveyed and assessed by the numbers given them on the plat.

B. When any part of a plat has been vacated by decree or written instrument, the owners of the lots so vacated may enclose the public ways and public grounds adjoining the lots in equal proportion.

C. Nothing contained in this article shall operate to preclude a fee from reverting to its owner when a public right-of-way is vacated in law or in fact.
Added by Laws 1977, c. 256, § 42-109, eff. July 1, 1978. Amended by Laws 2002, c. 74, § 2, emerg. eff. April 15, 2002.

§11-42-110. Power to close public ways or easements by ordinance - Reopening - Rights of utilities.

A. The municipal governing body by ordinance may close to the public use any public way or easement within the municipality whenever deemed necessary or expedient. The procedure for closing a public way or easement shall be established by ordinance or resolution adopted by the municipality.

B. The municipality shall give written notice of any proposed closing of a public way or easement to any holder of a franchise or others determined by the governing body to have a special right or privilege granted by ordinance or legislative enactment to use the public way or easement at least thirty (30) days prior to passage of any ordinance providing for closing of a public way or easement.

C. The municipality shall retain the absolute right to reopen the public way or easement without expense to the municipality. The public way or easement may be reopened by ordinance whenever:

1. The municipal governing body deems it necessary; or

2. An application of the property owners owning more than one-half in area of the property abutting on the public way or easement previously closed is filed with the governing body.

D. Closing of the public way or easement shall not affect the right to maintain, repair, reconstruct, operate or remove utility, public service corporation, or transmission company facilities of service therein, nor shall a closing affect private ways existing by operation of law unless released in writing executed by the owners thereof.

Laws 1977, c. 256, § 42-110, eff. July 1, 1978.

§11-42-111. Court action by owners to foreclose or reopen public way - Petition.

Any owner of any real estate to which any public way or easement, or any part thereof, has heretofore reverted or may hereafter revert by closing, within the corporate limits of any municipality, may commence an action in the district court in the county in which the real estate is situated, upon filing a verified petition. The petition shall show the passage of an ordinance closing the public way or easement and ask for the foreclosure of the absolute right to reopen the public way or easement or ask for the reopening of the public way or easement. Attached to the verified petition shall be the certificate of a bonded abstractor listing the names and mailing addresses of all persons required to be notified as set forth in Section 42-112 of this title.

Laws 1977, c. 256, § 42-111, eff. July 1, 1978.

§11-42-112. Notice of court action by owners to foreclose or reopen.

Notice of the verified petition by a property owner to foreclose the right to reopen the public way or to reopen the public way shall be given by:

1. Service of summons to the municipality as provided in civil action;

2. Service of summons to public service corporations, transmission and utility companies or franchise holders having rights in the public way or easement; and

3. a. Mailing by first class mail at least thirty (30) days before the hearing a copy of the petition and a copy of the notice to be published as provided in subparagraph b of this paragraph to all owners of record, as shown by the current year's tax rolls in the office of the county treasurer, of property abutting that portion of the public way or easement sought to be vacated, and such other owners of record whose property abuts said public way or easement within three hundred (300) feet from that portion of said public way or easement sought to be vacated; and to any person, firm or corporation, not otherwise required to be notified, that is known by the petitioner to claim an interest or rights in the public way or easement. An affidavit verifying the mailing of the petition and notice as provided for in this subparagraph shall be filed in the action.

b. Notice to the public shall be given by one (1) publication in a newspaper of general circulation published in the county where the property is located, which publication shall be at least thirty (30) days prior to the hearing. The summons or publication notice shall provide for an answer date not less than twenty (20) days after issuance of the summons or first publication notice.

Added by Laws 1977, c. 256, § 42-112, eff. July 1, 1978. Amended by Laws 1988, c. 57, § 1, eff. Nov. 1, 1988; Laws 1997, c. 28, § 1, eff. July 1, 1997.

§11-42-113. Hearing and disposition of petition to foreclose or reopen.

A. At the hearing on the petition, the district court shall inquire into the merits of the petition and take testimony as in any special proceeding and, upon determination of the issues, may:

1. grant the foreclosure of the right to reopen the public way or easement unless the municipality has established that it has a present or future reason to reopen or use the public way or easement as a public way or easement;

2. grant the request to reopen the public way or easement;

3. deny the petition; or

4. make any proper order pursuant to the facts and the law.

B. The order granting foreclosure of the right to reopen the vacated public way or easement, or portion thereof, shall vest a complete fee simple title in and to the vacated part or portion thereof which reverted to the real estate.

C. When any public way or easement is vacated, the same shall revert to the owners of real estate adjacent to such public way or easement on each side, in proportion to the frontage of the real estate, except in cases where such public way or easement has been taken and appropriated to public use in a different proportion, in which case it shall revert to adjacent lots or real estate in proportion to which it was taken from them or dedicated. Provided, however, when any public way or easement so vacated remains bounded on all sides by public ways, public grounds, or public easements, title to the entire tract vacated shall vest in the municipality but may then be used by the municipality or a leasehold conveyed by act of the governing body for any lawful purpose, public or private.
Amended by Laws 1984, c. 126, § 73, eff. Nov. 1, 1984; Laws 1990, c. 194, § 2, emerg. eff. May 10, 1990.

§11-42-114. Limitation on claims for damages.
No one may maintain an action for damages against the parties obtaining a decree of vacation of a public way or easement, their heirs, assigns, or successors, unless commenced within ninety (90) days after the decree of vacation has been rendered or the decree has become final if an appeal has been taken.
Laws 1977, c. 256, § 42-114, eff. July 1, 1978.

§11-42-115. Validation.

Any and all judgments rendered prior to October 1, 1973, for the vacation of a plat, public way or easement in actions that were prosecuted in compliance with the law applicable at the time such action accrued are hereby validated and declared to be legal and valid; except that any action which was commenced prior to October 1, 1973, or any action accruing prior to October 1, 1973, which is commenced prior to October 1, 1974, shall be determined according to the law in effect at the time of the accrual of such action, and the rights of the parties to such pending litigation or litigation commenced prior to October 1, 1974, shall not be affected by the provisions of this article.
Laws 1977, c. 256, § 42-115, eff. July 1, 1978.

§11-43-101. General powers of municipalities.

For the purpose of promoting health, safety, morals, or the general welfare of the community, a municipal governing body may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be

occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes. Laws 1977, c. 256, § 43-101, eff. July 1, 1978.

§11-43-101.1. Restriction of use of or prohibition of future use of property within certain military installation areas.

A. Any municipality in this state that is wholly or in part within an Air Installation Compatible Use Zone (AICUZ) study area, Joint Land Use Study (JLUS) area, Army Compatible Use Buffer (ACUB), or an Environmental Noise Management Plan (ENMP) of an active duty, National Guard or Reserve military installation may enact a city ordinance restricting or prohibiting future uses for that incorporated area which lies within the AICUZ, JLUS, ACUB, or ENMP area and which may expose residents to noise greater than sixty-five (65) Day-Night Noise Level (DNL) or accident potential that could affect the public health, safety, and welfare, or interfere with military operations, including aircraft operations. Such authority shall not extend into the corporate limits of another municipality.

B. The ordinance shall restrict or prohibit future uses within the AICUZ or JLUS area which:

1. Release into the air any substance which would impair visibility or otherwise interfere with military operations, including ground operations, such as steam, dust or smoke unless the substance is generated from agricultural use;

2. Produce light emissions, either directly, or indirectly or by reflective light, which would interfere with pilot vision, and aerial or ground-based night vision training;

3. Produce electrical emissions which would interfere with military ground and aircraft communications and navigation equipment;

4. Attract birds or waterfowl including, but not limited to, operation of sanitary landfills and maintenance of feeding stations;

5. Provide for structures within ten (10) feet of defined aircraft approach, departure, or transitional surfaces; or one hundred (100) feet beneath a low-level military aircraft training route as provided by the Federal Aviation Administration;

6. Expose persons to noise greater than sixty-five (65) DNL; or

7. Detract from the aesthetic appearance, or otherwise create or promote an unsightly, unsanitary or unhealthy appearance of any entrance into a military installation including, but not limited to, automobile or truck salvage yards, equipment storage sites or solid waste storage or disposal sites.

C. The ordinance shall restrict or prohibit future uses within the AICUZ/JLUS area which violate any Federal Aviation Administration height restriction in Title 14 of the Code of Federal Regulations (14 CFR) part 77, Objects Affecting Navigable Airspace.

D. 1. The ordinance shall be consistent with the most current recommendations or studies made by the United States Air Force installations located at Altus Air Force Base located in Altus, Oklahoma, Tinker Air Force Base located in Oklahoma City, Oklahoma, and Vance Air Force Base located in Enid, Oklahoma, entitled "Air Installation Compatible Use Zone Study" or studies made by the United States Department of the Army installations located at Fort Sill in Lawton, Oklahoma, entitled "Army Compatible Use Buffers" or any similar zoning relating to or surrounding a military installation as adopted by a county, city, or town or any combination of those governmental entities and shall be consistent with the most current recommendations; and

2. Interpretations of such ordinance shall consider the recommendations or studies with a view to protection of the public health, safety, and welfare and maintenance of safe military and aircraft operations, and assure sustainability of installation missions.

E. Subject to the provisions and requirements of paragraph 1 of subsection D of this section, the ordinance shall not prohibit single-family residential use on tracts of one (1) acre or more in area, provided that future construction shall comply with the "Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations, Wyle Research Report WR 89-7". Such construction shall be regulated and inspected by the municipality's existing building permit and inspection ordinances and procedures. Added by Laws 2001, c. 352, § 2, emerg. eff. June 1, 2001. Amended by Laws 2002, c. 41, § 1, emerg. eff. April 11, 2002; Laws 2004, c. 335, § 1, eff. Nov. 1, 2004; Laws 2006, c. 194, § 1, eff. Nov. 1, 2006.

§11-43-101.2. Potential state taxes list issued to building permit applicants.

A. After the effective date of this act, the clerk of any municipality or any other designated employee or official authorized to issue building permits shall provide to an applicant for a building permit a list, which shall be developed and provided to municipalities of this state by the Oklahoma Tax Commission, of state taxes which may potentially be assessed against any Oklahoma taxpayer or out-of-state taxpayer who applies for a building permit in this state. Such list shall include a paragraph in bold, conspicuous type indicating the requirement for certain building permit applicants to register with the Oklahoma Business Registration System of the Tax Commission.

B. Upon the request for issuance of an occupancy permit, the clerk or other designated employee or official shall request proof of registration with the Tax Commission under their Oklahoma Business Registration System. If the applicant does not provide proof of

registration, the clerk shall immediately issue the occupancy permit and shall advise the Tax Commission that the entity may not be registered under the Oklahoma Business Registration System.

C. The Tax Commission may maintain, as part of its online Business Registration System, the capability for an applicant to obtain a document electronically which will serve as proof of registration under the system.

D. This section shall not apply to building permits for new construction or remodel projects less than Fifty Thousand Dollars ($50,000.00) in value.

Added by Laws 2010, c. 399, § 1, eff. Nov. 1, 2010.

§11-43-102. Establishing districts within municipality - Erection, etc. of buildings - Uniformity of regulations - Sale for consumption of low-point beer.

A. The municipal governing body may divide the municipality into districts of such number, shape and area as it deems suitable in carrying out its powers as to buildings, land and structures. Within the districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

B. The municipal governing body may enact nondiscriminatory zoning ordinances regulating the location for the sale for consumption on the premises of low-point beer, as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, commonly called 3.2 beer; provided, however, that no special or separate classification shall be created only for businesses selling said product.

C. Nothing in this section shall be construed to apply to telephone exchange buildings.

Added by Laws 1977, c. 256, § 43-102, eff. July 1, 1978. Amended by Laws 1980, c. 49, § 1, eff. Oct. 1, 1980; Laws 1995, c. 274, § 3, eff. Nov. 1, 1995.

§11-43-103. Purpose of regulations - Comprehensive plan.

Municipal regulations as to buildings, structures and land shall be made in accordance with a comprehensive plan and be designed to accomplish any of the following objectives:

1. To lessen congestion in the streets;
2. To secure safety from fire, panic and other dangers;
3. To promote health and the general welfare, including the peace and quality of life of the district;
4. To provide adequate light and air;
5. To prevent the overcrowding of land;
6. To promote historical preservation;
7. To avoid undue concentration of population; or

8. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality. The governing body shall provide the manner in which regulations, restrictions and district boundaries shall be determined, established and enforced, and amended, supplemented or changed.
Added by Laws 1977, c. 256, § 43-103, eff. July 1, 1978. Amended by Laws 1991, c. 32, § 1, eff. Sept. 1, 1991; Laws 1999, c. 220, § 3, eff. Nov. 1, 1999.

§11-43-104. Notice and public hearing of proposed regulations.

A. Parties in interest and citizens shall have an opportunity to be heard at a public hearing before any district regulation, restriction, or boundary shall become effective. At least fifteen (15) days' notice of the date, time, and place of the hearing shall be published in a newspaper of general circulation in the municipality. The notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in the area.

B. In addition to the notice required in subsection A of this section, if the zoning change requested permits the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses and any housing or facility that may be used for medical or nonmedical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, the entity proposing the change in district regulation, restriction, or boundary shall mail a written notice within thirty (30) days of the hearing to all real property owners within one-quarter (1/4) of a mile where the area to be affected is located and shall be responsible for all costs incurred in mailing this notice.

For purposes of this subsection, "entity" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, incorporated municipality or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized.
Added by Laws 1977, c. 256, § 43-104, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 74, eff. Nov. 1, 1984; Laws 2009, c. 226, § 1, eff. Nov. 1, 2009.

§11-43-105. Amendments or changes of regulations, restrictions and boundaries - Protests.

A. Regulations, restrictions and district boundaries of municipalities may be amended, supplemented, changed, modified or repealed. The requirements of Section 43-104 of this title on public hearings and notice shall apply to all proposed amendments or changes to regulations, restrictions or district boundaries.

B. Protests against proposed changes shall be filed at least three (3) days before the date of the public hearings. If protests are filed by:

1. the owners of twenty percent (20%) or more of the area of the lots included in a proposed change, or

2. the owners of fifty percent (50%) or more of the area of the lots within a three hundred (300) foot radius of the exterior boundary of the territory included in a proposed change;

then the proposed change or amendment shall not become effective except by the favorable vote of three-fourths of all the members of the municipal governing body where there are more than seven members in the governing body, and by three-fifths favorable vote where there are seven or less members in the governing body.

Laws 1977, c. 256, § 43-105, eff. July 1, 1978.

§11-43-106. Additional notice requirements for proposed zoning changes and reclassifications.

A. Except as authorized in subsection B of this section, in addition to the notice requirements provided for in Section 43-104 of this title, notice of a public hearing on any proposed zoning change, except by a municipality acting pursuant to subsection B of this section, shall be given twenty (20) days prior to the hearing by mailing written notice by the secretary of the planning commission, or by the municipal clerk if there is no planning commission, to all the owners of real property as provided for in Section 43-105 of this title. In addition to the notice required in this subsection, if the zoning change requested permits the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses and any housing or facility that may be used for medical or nonmedical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, the entity proposing the zoning change shall mail a written notice within thirty (30) days of the hearing to all real property owners within one-quarter (1/4) of a mile where the area to be affected is located and shall be responsible for all costs incurred in mailing this notice. The notice shall contain the:

1. Legal description of the property and the street address or approximate location in the municipality;

2. Present zoning of the property and the zoning sought by the applicant; and

3. Date, time, and place of the public hearing.

In addition to written notice requirements, notice may also be given by posting notice of the hearing on the affected property at least twenty (20) days before the date of the hearing.

For purposes of this subsection, "entity" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, incorporated municipality or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized.

B. If a municipality proposes zoning reclassifications in order to revise its comprehensive plan or official map or to identify areas which require specific land use development due to topography, geography, or other distinguishing features, including but not limited to floodplain, drainage, historic preservation, and blighted areas, the governing body may require, in addition to the notice requirements provided for in Section 43-104 of this title, a sign to be posted on designated properties within the area affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. The notice shall state:

1. The date, time, and place of the public hearing;
2. Who will conduct the public hearing;
3. The desired zoning classification;
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

Added by Laws 1977, c. 256, § 43-106, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 75, eff. Nov. 1, 1984; Laws 2009, c. 226, § 2, eff. Nov. 1, 2009.

§11-43-107. Injunction for violations of regulations.

If any building, structure or land is in violation of any municipal ordinance or other regulation, the proper local authorities of the municipality, or any other person affected thereby, in addition to other remedies, may institute appropriate action or proceedings to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate any violation; to prevent the unlawful occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises. Laws 1977, c. 256, § 43-107, eff. July 1, 1978.

§11-43-108. Governing act in case of conflict.

Whenever the provisions of a statute, local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of

stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than any other applicable statute, local ordinance or regulation, then the provisions of the statute, local ordinance or regulation which impose higher standards or greater restrictions shall govern. In no event shall any provision of this article apply to any property of any railway company or terminal company. As used in this section, "terminal company" shall include a qualified terminal as defined in Section 500.3 of Title 68 of the Oklahoma Statutes.
Added by Laws 1977, c. 256, § 43-108, eff. July 1, 1978. Amended by Laws 2008, c. 307, § 8, eff. July 1, 2008.

§11-43-109. Appointment of zoning commission.

In order to avail itself of the powers conferred by this article, the municipal governing body shall appoint a commission to be known as the zoning commission to recommend the boundaries of the various original districts and to recommend appropriate regulations to be enforced therein. The commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The governing body shall not hold its public hearings or take action until it has received the final report of the commission. Where a municipal planning commission already exists, it shall be appointed as the zoning commission.
Laws 1977, c. 256, § 43-109, eff. July 1, 1978.

§11-43-109.1 Suit to challenge action, decision, ruling or order of municipal governing body – Timing.

Any suit to challenge any action, decision, ruling or order of the municipal governing body under the provisions of this article shall be filed with the district court within thirty (30) business days from the action, decision, ruling or order.
Added by Laws 2004, c. 314, § 2, eff. Nov. 1, 2004.

§11-43-109.2. Residential building permits - Verification of contractor's insurance - Fees - Liability.

A. Any entity that issues building permits shall, before issuance of a residential building permit, obtain a certificate of insurance from the appropriate insurer that the contractor has general liability insurance in an amount required by other construction trade contractors licensed by the Construction Industries Board and that the contractor has workers' compensation insurance or a workers' compensation exemption verification document. A residential building permit shall be defined for this section as any building permit for a single-family or a duplex residential structure and shall include construction of a new structure, remodel of an existing structure, and the addition to an existing structure. Not included under the definition of a residential building permit

are a single-family or a duplex carport, patio cover, storage building, accessory building, pool, or fence.

B. This provision shall not apply to a person or persons performing the construction or remodeling to his, her, or their own single-family or duplex structure on their own property regardless if the construction or remodeling is to a single family or duplex structure that is also for rental purposes, unless the modifications are being performed by and the permit is acquired by a general contractor or subcontractor, in which case the general contractor or subcontractor shall meet the requirements set forth in subsection A of this section.

C. If the entity should require a contractor to register in order to monitor insurance verifications, the registration fee shall not exceed the fee assessed by the entity for other construction trade contractors licensed by the Construction Industries Board.

D. The entity shall not be liable if the documentation provided is false or if the general liability insurance or workers' compensation insurance lapses after the building permit is issued. Added by Laws 2009, c. 206, § 1, eff. Nov. 1, 2009. Amended by Laws 2010, c. 54, § 1, emerg. eff. April 9, 2010.

§11-43-110. Planned unit developments - Zoning ordinances - Required regulations - Notice and hearing - Consideration of requests - Incorporation of other land development ordinances and statutes.

A. As used in this section, "planned unit development" includes cluster housing, planned residential and nonresidential development, community unit plan, and other zoning requirements which are designed to accomplish the objectives of a comprehensive plan and zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

B. A municipal governing body may establish planned unit development requirements and procedures in a zoning ordinance which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve efficiency in the use of land, natural resources, energy and the providing of public services and utilities; encourage useful open space; and provide better housing, employment and shopping opportunities particularly suited to the needs of the residents of the state. The review and approval of a planned unit development shall be made by either the planning commission or the governing body.

C. Within a designated planned unit development, conditions relating to the use of land, including but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, lighting, signage, landscaping, parking

and loading, compatibility, and land use density shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development conditions need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions have been followed in making regulatory decisions.

D. The planned unit development regulations established by a municipality shall specify the following:

1. The body which shall review and approve planned unit development requests and amend the same;

2. The conditions which create planned unit development eligibility, the persons and agencies involved in the review process, if any, and the requirements and standards upon which applications will be reviewed and approval granted; and

3. The procedures required for application, review and approval.

E. Following receipt of a request for a planned unit development, at least one public hearing shall be held. An ordinance may provide for one or more preapplication conferences before submission of a planned unit development request, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given by mail in the same manner as required by Section 43-106 of this title for public hearings on proposed zoning changes. In addition, a municipality may require notice by posting and/or publication. Within a reasonable time following the public hearing, the body responsible for approving planned unit developments shall deny the request, approve the request, or approve the request with conditions.

1. Should the ordinance require that the municipal governing body amend the ordinance to act on the planned unit development request, the planning commission shall conduct the public hearing and make recommendations on the planned unit development request which shall be transmitted to the municipal governing body for consideration in making a final decision. If an amendment of a zoning ordinance is required by the planned unit development regulations of a municipal zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed.

2. If the planned unit development regulations of a municipal zoning ordinance do not require amendment of the ordinance to authorize a planned unit development, the body charged in the zoning ordinance with review and approval of planned unit developments may approve, approve with conditions, or deny a request.

F. Final approvals may be granted on each phase of multiphased planned unit developments if each phase contains the necessary consideration of the natural environment and the health, safety, and welfare of the users of the planned unit development and the landowners immediately adjacent thereto.

G. In establishing planned unit development regulations, a municipal governing body may incorporate by reference other available and applicable ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other requirements affecting the development of land.
Added by Laws 1990, c. 215, § 1, emerg. eff. May 18, 1990.

§11-43-111. Conditions of approval - Standards of evaluation - Record of conditions.

A. If a municipal zoning ordinance authorizes the consideration and approval of planned unit developments pursuant to Section 2 of this act, or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the comprehensive plan and/or any ordinances, and promote the land use or activity so as to be compatible with adjacent uses of land, the natural environment, and the planned capacities of public services and facilities affected by the land use. The standards shall also ensure that the land use or activity is consistent with the public health, safety, and welfare of the municipality.

B. Reasonable conditions may be required in conjunction with the approval of a planned unit development. Conditions imposed shall meet the following requirements:

1. Be designed to take into consideration natural environment, the health, safety and welfare of the residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of the police power, and to the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

C. The conditions imposed with respect to the approval of a land use or activity shall be stated in the record of the approval actions, and shall not be changed or amended except as authorized by the zoning ordinance with notice as specified thereby. The approving body shall maintain a record of conditions which are changed.
Added by Laws 1990, c. 215, § 2, emerg. eff. May 18, 1990.

§11-43-112. Site plans - Submission, review and approval - Changes - Validity of prior approved developments.

A. As used in the section, "site plan" means the documents and plans specified in the zoning ordinance needed to ensure that a

proposed land use or activity is in compliance with the ordinances and applicable state and federal regulations, if any.

B. The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review and approval shall be required for planned unit developments. Decisions denying, approving, or conditionally approving a site plan shall be based upon the approved planned unit development conditions and standards, and requirements contained in the zoning ordinance.

C. Changes to the approval site plan may be authorized by the zoning ordinance with notice as specified thereby.

D. Nothing set out in this section or Sections 2 and 3 of this act shall invalidate a planned unit development approved by a municipality prior to the effective date of these sections.
Added by Laws 1990, c. 215, § 3, emerg. eff. May 18, 1990.

§11-43-113. Specific use permits - List of uses - Conditions for use of land - Public hearing.

A. As used in this act, "specific use permit" means a permit granted by a municipal governing body, after notice and a hearing and preliminary review and recommendation of a municipal planning commission, for a specific use within any zoning district. Municipalities may enact an ordinance provision for specific use permit. Any municipality enacting an ordinance providing for specific use permits shall enumerate a list of uses which it has determined more intensely dominate the area in which they are to be located or their effects on the general public are broader in scope than other types of uses which are permitted in a zoning district. An entity with a use which is enumerated on the list may, by application for a specific use permit, locate in a zoning district for which such use would not normally be allowed or could be allowed, but due to its potential impact on surrounding properties, must secure a specific use permit.

B. The types of uses for which a specific use permit may be required shall be those types of uses which, because of the size of the land they require or the specialized nature of the use, may more intensely dominate the area in which they are located and their effects on the general public are broader in scope than other uses permitted in the district.

C. The designation of a specific use as possible on the specific use list shall not constitute an authorization or an assurance that such use will be permitted. Rather, each specific use permit application shall be viewed as to its probable effect on the adjacent properties and community welfare and may be approved or denied as the findings indicate appropriate.

D. In granting a specific use permit, the governing body of the municipality may require conditions related to the use of land,

including, but not limited to, permitted uses, lot sizes, setback, height limits, required facilities, buffers, open space areas, lighting, signage, landscaping, parking and loading, compatibility, land use density, bonding, insurance and such other development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole. This may include having the property platted and/or the requirement of the dedication of sufficient right-of-way or easement as necessary to further the public good. Such conditions shall be determined in accordance with the regulations specified in the zoning ordinance. The conditions need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions have been followed in making regulatory decisions.

E. The specific use permit regulations established by a municipality shall specify the following:

1. The body which shall review and approve specific use permit requests and amend the same;

2. The conditions which create specific use permit eligibility, the persons and agencies involved in the review process, if any, and the requirements and standards upon which applications will be reviewed and approval granted; and

3. The procedures required for application, review and approval.

F. Following receipt of a request for a specific use permit, at least one public hearing shall be held. An ordinance may provide for one or more preapplication conferences before submission of a request, the submission of a deposit necessary for payment of application and permit expenses, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given by mail in the same manner as required by Section 43-106 of Title 11 of the Oklahoma Statutes for public hearings on proposed zoning changes. Within a reasonable time following the public hearing, the body responsible for approving a specific use permit shall deny the request, approve the request, or approve the request with the following conditions:

1. The planning commission shall conduct a public hearing and make recommendations on the specific use permit request which shall be transmitted to the municipal governing body for consideration in making a final decision. If an amendment of a zoning ordinance is required by the specific use permit regulations of a municipal zoning ordinance, the requirements for amendment of a zoning ordinance shall be followed; and

2. If the specific use permit regulations of a municipal zoning ordinance do not require amendment of the ordinance with review and approval of specific use permits, the municipal governing body may approve, approve with conditions, or deny a request.

G. In establishing specific use permit ordinances, the municipal governing body may incorporate by reference other available and applicable ordinances or statutes which regulate land development. Added by Laws 2003, c.18, § 1, eff. Nov. 1, 2003. Amended by Laws 2008, c. 6, § 2, emerg. eff. April 4, 2008.

§11-43-114. Decision-making regulations and standards - Conditions of approval.

A. If a municipal zoning ordinance authorizes the consideration and approval of a specific use permit pursuant to the provisions of this act, the regulations and standards upon which those decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the comprehensive plan and/or ordinances, and promote the land use or activity so as to be compatible with adjacent uses of land, the natural environment, and the planned capacities of public services and facilities affected by the land use. The standards shall also ensure that the land use or activity is consistent with the public health, safety, and welfare of the municipality.

B. Reasonable conditions may be required in conjunction with the approval of a specific use permit. Conditions imposed shall meet the following requirements:

1. Be designed to take into consideration natural environment, the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

2. Be related to the valid exercise of the police power, and to the proposed use or activity;

3. Be necessary to meet the intent and purpose of the zoning requirements;

4. Be related to the standards established in the ordinance for the land use or activity under consideration; and

5. Be necessary to ensure compliance with those standards.

C. The conditions imposed with respect to the approval of a specific use permit shall be stated in the record of the approval actions, and shall not be changed or amended except as authorized by the zoning ordinance with notice as specified thereby. The approving body shall maintain a record of conditions which are changed. Added by Laws 2003, c 18, § 2, eff. Nov. 1, 2003.

§11-43-115. Site plans - Submission and approval.

A. As used in this section, "site plan" means the documents and plans specified in the zoning ordinance which are needed to ensure that a proposed land use or activity is in compliance with the ordinances and applicable state and federal regulations, if any.

B. The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance.

Site plan submission review and approval shall be required for specific use permits. Decisions denying, approving, or conditionally approving a site plan shall be based upon the approved specific use permit conditions and standards, and requirements contained in the zoning ordinance.

C. Changes to the approved site plan may be authorized by the zoning ordinance with notice as specified thereby.

D. The ordinance providing for specific use permits may provide that the permit shall become void if the use ceases for a specified period of time or if the use does not commence within a specified time after the granting of the specific use permit.

E. Nothing set out in this section or Sections 1 and 2 of this act shall invalidate a specific use permit approved by a municipality prior to the effective date of these sections whether named a specific use permit or conditional use permit or other term but having as its purpose the same or similar purpose herein provided and which provided notice and an opportunity for hearing prior to approval.

Added by Laws 2003, c. 18, § 3, eff. Nov. 1, 2003.

§11-44-101. Board of adjustment - Appointment.

Where a municipality is exercising zoning powers, as conferred by Sections 43-101 through 43-109 of this title, the governing body of the municipality shall provide by ordinance for the appointment of a Board of Adjustment. The board of adjustment shall consist of five (5) members, each to be appointed for a term of three (3) years and removable for cause by the governing body, upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Laws 1977, c. 256, § 44-101, eff. July 1, 1978.

§11-44-102. Meetings and rules.

The board of adjustment shall adopt rules in accordance with the provisions of the ordinance adopted by the municipal governing body. Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board of adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The board of adjustment shall be subject to the open meeting laws of the state and all meetings, deliberations and voting of the board shall be open to the public. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of all official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be public record.

Laws 1977, c. 256, § 44-102, eff. July 1, 1978.

§11-44-103. Board of adjustment in cities over 200,000 population - Hearings and compensation.

In any city which has a population in excess of two hundred thousand (200,000), the board of adjustment shall hold a minimum of two regular scheduled public hearings per month, unless the city also has a board of building code appeals which holds at least one meeting each month in addition to the monthly meeting of the board of adjustment. The members of the board of adjustment may receive a per diem of Twenty-five Dollars ($25.00) for each meeting attended not to exceed Fifty Dollars ($50.00) per month.
Laws 1977, c. 256, § 44-103, eff. July 1, 1978.

§11-44-104. Powers.

The board of adjustment shall have the power to:

1. hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance;

2. hear and decide special exceptions to the zoning ordinance to allow a use, or a specifically designated element associated with a use, which is not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the board of adjustment, where specifically authorized by the zoning ordinance, and in accordance with the substantive and procedural standards of the zoning ordinance;

3. authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use except as provided by paragraph 4 of this section;

4. hear and decide oil and/or gas applications or appeals unless prohibited throughout a municipality by municipal ordinance. The board of adjustment shall be required to make the findings prescribed by Section 44-107 of this title in order to grant a variance as to use with respect to any such application or appeal.

Exceptions and/or variances may be allowed by the board of adjustment only after notice and hearing as provided in Section 44-108 of this title. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance or special exception was established at the public hearing

on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.
Amended by Laws 1984, c. 126, § 76, eff. Nov. 1, 1984; Laws 1988, c. 198, § 1, emerg. eff. June 9, 1988.

§11-44-105. Extent of relief.

A. When exercising the powers provided for in Section 44-104 of this title, the board of adjustment, in conformity with the provisionsof the ordinance, may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement, decision, or determination as ought to be made.

B. The concurring vote of at least three members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it pursuant to the zoning ordinance and Section 44-104 of this title.
Amended by Laws 1984, c. 126, § 77, eff. Nov. 1, 1984; Laws 1988, c. 198, § 2, emerg. eff. June 9, 1988.

§11-44-106. Special exceptions.

The municipal governing body may authorize the board of adjustment to make special exceptions to specific uses allowed within each zoning category according to the zoning ordinance in appropriate cases and subject to appropriate conditions and safeguards in harmony with its general purpose and intent and only in accordance with general or specific provisions contained in the zoning ordinance.
Amended by Laws 1988, c. 198, § 3, emerg. eff. June 9, 1988.

§11-44-107. Variances.

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance may be granted, in whole, in part, or upon reasonable conditions as provided in this article, only upon a finding by the board of adjustment that:

1. The application of the ordinance to the particular piece of property would create an unnecessary hardship;

2. Such conditions are peculiar to the particular piece of property involved;

3. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive plan; and

4. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.
Amended by Laws 1988, c. 198, § 4, emerg. eff. June 9, 1988.

§11-44-107.1. Nonconforming use - Termination - Exception.

A. The lawful nonconforming use of a building, structure or premises as such existed at the time of the adoption and recording of any ordinance affecting it, may be continued, although such use does not conform with the provisions of such ordinance. The municipality may provide for the termination of lawful nonconforming uses either by specifying the period or periods within which such use shall be required to cease, or by designating conditions or circumstances which shall cause such use to cease, or by providing a formula or formulas whereby the compulsory termination of a nonconforming use shall be so fixed as to allow a reasonable period for the amortization of the investment in the nonconformance.

B. Regulations and restrictions affecting the termination of nonconforming uses as authorized by this section may be adopted or amended by the municipality only after notice and hearing as provided in Sections 43-104 and 43-105 of Title 11 of the Oklahoma Statutes.

C. Nothing in this section shall be construed to permit or authorize municipalities to terminate lawful nonconforming uses consisting of oil and/or gas activity.

D. Nothing in this section shall be construed to permit or authorize municipalities to terminate a lawfully erected nonconforming sign unless such sign is altered in a manner that increases the degree of nonconformity or is abandoned for a period of more than two (2) years.

Added by Laws 1988, c. 198, § 5, emerg. eff. June 9, 1988. Amended by Laws 1994, c. 125, § 3, eff. Sept. 1, 1994.

§11-44-108. Notice and hearings - Contents of notice - Minor variances or exceptions.

A. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the clerk of the board of adjustment to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.

B. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the municipality;

2. Present zoning classification of the property and the nature of the appeal, variance or exception requested; and

3. Date, time and place of the hearing.

C. On hearings involving minor variances or exceptions, notice shall be given by the clerk of the board of adjustment by mailing written notice to all owners of property adjacent to the subject

property. The notice shall be mailed at least ten (10) days prior to the hearing and shall contain the facts listed in subsection B of this section. The board of adjustment shall set forth in a statement of policy what constitutes minor variances or exceptions, subject to approval or amendment by the municipal governing body.
Laws 1977, c. 256, § 44-108, eff. July 1, 1978.

§11-44-109. Procedure for appeals to the board of adjustment.

The municipal governing body shall provide by ordinance for appeals from any action or decision of an administrative officer acting pursuant to any zoning ordinance to the board of adjustment in the following manner:

1. Appeals from the action of any administrative officer to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer;

2. An appeal shall be taken within the time limits as fixed by municipal ordinance by filing with the officer from whom the appeal is taken and by filing with the board of adjustment a notice of appeal specifying the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment certified copies of all the papers constituting the record of the matter, together with a copy of the ruling or order from which the appeal is taken;

3. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown; and

4. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
Laws 1977, c. 256, § 44-109, eff. July 1, 1978.

§11-44-110. Appeals from the board of adjustment.

A. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons who were entitled, pursuant to Section 44-108 of this title, to mailed notice of the public hearing before the board of adjustment, by any person or persons whose property interests are directly affected by such action, decision, ruling, judgment or order

of the board of adjustment, or by the governing body of the municipality to the district court in the county in which the situs of the municipality is located.

B. The appeal shall be taken by filing with the municipal clerk and with the clerk of the board of adjustment, within the time limits which may be fixed by ordinance, a notice of appeal. The notice shall specify the grounds for the appeal. No bond or deposit for costs shall be required for such appeal.

C. Upon filing the notice of appeal, the board of adjustment shall forthwith transmit to the court clerk the original, or certified copies, of all papers constituting the record in the case, together with the order, decision or ruling of the board.

D. The appeal shall be heard and tried de novo in the district court. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

E. During the pendency of such an appeal, the effectiveness of a decision of the board of adjustment shall not be suspended unless a party applies to the district court for a stay pending the district court's determination of the merits of the appeal. Notice of such application shall be given by first class mail to all parties, to the district court appeal and to any applicant before the board of adjustment. Upon filing of an application for stay in the district court, all proceedings in furtherance of the action appealed from shall be temporarily stayed pending the outcome of a hearing regarding the stay, which shall be conducted within thirty (30) days of application. The Court shall determine whether to impose a stay by considering the following factors: (i) the likelihood of success on the merits by the party seeking to impose the stay, (ii) irreparable harm to the property interests of the party seeking to impose the stay if the stay is not imposed, (iii) relative effect on the other interested parties, and (iv) public policy concerns arising out of the imposition of the stay. If the court determines to impose a stay, the court shall require a bond or other security and such other terms as it deems proper to secure the rights of the parties and compensate for costs of delay. A bond or other security shall be posted within ten (10) business days of the court's determination; provided, that a municipal governing body shall not be required to post a bond. Subject to subsection A of Section 990.3 of Title 12 of the Oklahoma Statutes, a stay pursuant to this subsection shall automatically dissolve after a judgment, decree or final order resolving the merits of the appeal is filed with the court clerk. Notwithstanding any provision of law to the contrary, stays in appeals from the board of adjustment to the district court shall be obtained only as set forth in this section.

F. The district court may reverse or affirm, wholly or partly, or modify the decision brought up for review. Costs shall not be allowed against the board of adjustment unless it shall appear to the

district court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from. An appeal shall lie from the action of the district court as in all other civil actions. A party may obtain a stay of the enforcement of the district court's judgment, decree or final order as provided by Section 990.4 of Title 12 of the Oklahoma Statutes.
Added by Laws 1977, c. 256, § 44-110, eff. July 1, 1978. Amended by Laws 2016, c. 11, § 1, emerg. eff. April 5, 2016.

§11-45-101. Municipal planning commissions - Appointment authorized - Ordinances.

A municipal governing body may appoint a municipal planning commission whenever it is deemed expedient and may pass suitable ordinances for carrying out the provisions of this article.
Laws 1977, c. 256, § 45-101, eff. July 1, 1978.

§11-45-102. Members of municipal planning commission - Compensation.

The municipal planning commission shall consist of not less than five (5) citizens, all of whom shall reside within the municipality. The members shall be nominated by the mayor and confirmed by the governing body of the municipality. Each member shall serve for a term of three (3) years. When the commission is first appointed, the terms of one-third (1/3) of the members shall be for three (3) years, one-third (1/3) for two (2) years, and one-third (1/3) for one (1) year. Appointments to fill vacancies shall be for the unexpired term only. The members of the commission shall serve without pay, except that in cities having a population of more than two hundred thousand (200,000), the commissioners may receive a per diem as set by the municipal governing body, not to exceed Twenty-five Dollars ($25.00) for each meeting attended or One Hundred Dollars ($100.00) per month.
Amended by Laws 1984, c. 126, § 78, eff. Nov. 1, 1984.

§11-45-103. Duties and powers of the planning commission - Employees.

The planning commission shall prepare from time to time plans for the betterment of the municipality as a place of residence or for business. It may consider and investigate any subject matter tending to the development and betterment of the municipality, and make recommendations as it may deem advisable concerning the adoption thereof, to any department of the municipal government, and for any purpose make or cause to be made surveys, maps or plans. The commission shall have the power and authority to employ engineers, attorneys, clerks and a secretary, or any other help deemed necessary, subject to the approval of the municipal governing body. The salaries and compensation of any planning commission employees shall be fixed by the governing body and shall be paid out of the municipal treasury as other officers and employees. The necessary

expenses incurred by the commission shall be appropriated and paid out of the municipal treasury as other legal expenses of the municipality, but in no event may the planning commission be authorized to create a deficiency.
Laws 1977, c. 256, § 45-103, eff. July 1, 1978.

§11-45-104. Public improvements and plats of land - Planning commission review - Subdivision regulations - Rural land not served by municipal water and sewer facilities.

A. Before final action may be taken by any municipality or department thereof on the location, construction, or design of any public building, statue, memorial, park, parkway, boulevard, street, alley, playground, public ground, or bridge, or the change in the location or grade of any street or alley, the question shall be submitted to the planning commission for investigation and report. Counties and school districts may be exempted from the payment of a fee to obtain any license or permit required by a zoning, building, or similar ordinance of a municipality.

B. All plans, plats, or replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same, intended to be dedicated to public or private use, within the corporate limits of a municipality, shall first be submitted to the municipal planning commission for its approval or rejection. Before said plans, plats, or replats shall be entitled to be recorded in the office of the county clerk, they shall be approved by the municipal governing body. It shall be unlawful to offer and cause to be recorded any such plan, plat, or replat in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the municipal governing body. Any plat filed without the endorsed approval of the municipal governing body shall not import notice nor impose any obligation or duties on the municipality. The disapproval of any such plan, plat, or replat by the municipal governing body shall be deemed a refusal of the proposed dedication shown thereon.

C. The municipal planning commission may exercise jurisdiction over subdivision of land and adopt regulations governing the subdivision of land within its jurisdiction. Any such regulations, before they become effective, shall be approved by the municipal governing body and shall be published as provided by law for the publication of ordinances. Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water, sewer, and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations may provide for a tentative approval of the plat before such installation. Any such tentative approval shall be revocable for failure to comply with commitments upon which the tentative approval was based and shall not

be entered on the plat. In lieu of the completion of any improvements or utilities prior to the final approval of the plat, the commission may accept an adequate bond with surety, satisfactory to the commission, to secure for the municipality the actual construction and installation of the improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission, and further conditioned that the developer will pay for all material and labor relating to the construction of the improvements. The municipality may enforce said bond by all appropriate legal and equitable remedies. Nothing in this section shall be construed as granting to any municipality or planning commission the power to direct any public utility to extend its services to any particular area.

D. Upon adoption of the regulations governing the subdivision of land as provided in subsection C of this section, no plat or deed or other instrument concerning the subdivision of land within the corporate limits of a municipality shall be filed with the county clerk until it has been approved by the municipal planning commission of that municipality in accordance with the officially adopted regulations of subdivisions of that commission. If such approval is needed, the approval shall be endorsed on the face of the plat, or in the case of a deed or other instrument, in the form of a special subdivision certificate. If the adopted regulations exempt a certain subdivision of land from the approval requirement, the municipal planning commission shall provide to the county clerk an exemption statement to accompany the deed or instrument to be filed.

E. A municipality which contains large areas of rural land not served by water and sewer facilities by the municipality shall authorize the use of private roadways in either platted or unplatted areas and shall issue building permits to property owners whose property is abutting upon the private roadways, without complying with standards as provided for dedicated streets, subject to the following conditions:

1. The private roadway easement shall be at least fifty (50) feet in width; and

2. The property abutting upon the private roadway shall contain not less than two (2) acres; provided, however, if the covenants of the subdivision allow for Evapotranspiration Absorption Systems or an Aerobic Wastewater Treatment System, the property abutting upon the private roadway may contain not less than one (1) acre; and

3. The property shall be more than one-fourth (1/4) mile from sewer and water facilities furnished by the municipality; and

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, shall be the private roadway of the owners of the abutting property; and

5. The private roadway shall be maintained by the owners of the property within the subdivision; and

6. The municipality shall have no responsibility for the maintenance or repair of the private roadway; and

7. If the property is platted, there shall be emblematized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public and that the streets shall be maintained by the private property owners within the subdivision. Said streets shall always be open to police, fire, and other official vehicles of all state, federal, county, and municipal agencies; and

8. Every deed shall clearly acknowledge that the roadway is private and not maintained by the municipality; and

9. Prior to the sale of any parcel of land in the subdivision, a conspicuous sign shall be posted at the entrance to the subdivision: "Private roadway not maintained by _____ (the municipality)". At any time after the municipality permits the use of said private roadway, a petition of the owners of at least sixty percent (60%) of the area of the land to improve and dedicate the street shall bind all of the owners thereby to permanently improve the street or roadway in compliance with the requirements of the municipality; and

10. The planning commission may require the developer of such property to reserve appropriate utility easements for water, sewer, and any other utility installations as may be required for present and future development.

Added by Laws 1977, c. 256, § 45-104, eff. July 1, 1978. Amended by Laws 1978, c. 126, § 1, eff. July 1, 1978; Laws 1984, c. 126, § 79, eff. Nov. 1, 1984; Laws 1989, c. 231, § 1, eff. Nov. 1, 1989; Laws 2002, c. 274, § 1, eff. July 1, 2002; Laws 2004, c. 20, § 1, eff. July 1, 2004.

§11-45-106. Suit to challenge action, decision, ruling or order of municipal planning commission – Timing.

Any suit to challenge any action, decision, ruling or order of the municipal planning commission under provisions of this article shall be filed with the district court within thirty (30) business days from the action, decision, ruling or order.

Added by Laws 2004, c. 314, § 3, eff. Nov. 1, 2004.

§11-46-101. Regional planning commissions - Appointment authorized - Members - Compensation.

Any municipality may appoint a regional planning commission. The members of the regional planning commission shall consist of the members of the municipal planning commission. The mayor, municipal engineer, chairman of the board of county commissioners, and county engineer shall be ex officio voting members of the commission but

shall not be counted for purposes of a quorum. Members of the regional planning commission shall serve without pay.
Amended by Laws 1984, c. 126, § 80, eff. Nov. 1, 1984.

§11-46-102. Jurisdiction of regional planning commission.

The regional planning commission shall have jurisdiction over a regional district which shall be construed to mean any land outside the incorporated limits of any municipality whose any one boundary, at any point, shall be within a distance of three (3) miles from the incorporated limits of the municipality.
Laws 1977, c. 256, § 46-102, eff. July 1, 1978.

§11-46-103. Duties and powers of regional planning commission - Employees and expenses.

The regional planning commission shall prepare from time to time plans for the systematic development and betterment of the regional district for residence, manufacturing or business purposes. It may consider and investigate any subject matter tending to the development and betterment of such regional district and make recommendations as it may deem advisable concerning the adoption thereof to any department of the municipal or county government, and for any purpose make or cause to be made surveys, maps or plans. The commission shall have the power and authority to employ attorneys, engineers, clerks and a secretary, and to pay for their services, and to pay for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the commission. It shall be lawful for the board of county commissioners to appropriate money for the expenses of such regional planning commission.
Laws 1977, c. 256, § 46-103, eff. July 1, 1978.

§11-46-104. Public improvements and plats of land - Regional planning commission review - Rural land not served by municipal water and sewer facilities - Punishment for violation.

A. Before final action shall be taken by any municipal or county government or department thereof on the location and design of any public buildings, statue, memorial, park, parkway, boulevard, playground, public grounds, or bridge, within such regional district, the question shall be submitted to the regional planning commission for investigation and report.

B. All plans, plats, or replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same intended to be dedicated to public or private use, within such regional district, shall first be submitted to the regional planning commission and approved by it before it shall be entitled to record in the office of the county clerk. It shall be unlawful to receive or record any such plat, plan or replat in any public office unless

the same shall bear thereon, by endorsement or otherwise, the approval of the regional planning commission. The disapproval of any such plan, plat or replat by the regional planning commission shall be deemed a refusal of the proposed dedication shown thereon.

C. In any regional district which contains large areas of rural land not served by water and sewer facilities by any governmental entity, the use of private roadways in either platted or unplatted areas shall be recognized and authorized and building permits to property owners abutting upon the private roadways shall be issued without complying with standards as provided for dedicated streets under the following conditions:

1. The private roadway easement shall be at least fifty (50) feet in width;

2. The property abutting the private roadway shall contain not less than two (2) acres;

3. The property shall be more than one-fourth (1/4) mile from sewer and water facilities furnished by the governmental entity;

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;

5. The private roadway shall be maintained by the owners of the property within the subdivision;

6. No municipality or county shall have responsibility for the maintenance and repair of the private roadway;

7. If the property is platted, there shall be emblemized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public, and that the streets shall be maintained by the private property owners within the subdivision, but that the streets shall always be open to police, fire, and other official vehicles of all state, federal, county and municipal agencies;

8. Every deed shall clearly acknowledge that the roadway is private and not maintained by any municipality or county;

9. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance to the subdivision: "Private roadway not maintained by _____ (the municipality or county)." At any time after use of such private roadway is recognized and authorized pursuant to law, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby to permanently improve the street or roadway in compliance with the applicable requirements of the municipality or county. All other ordinances and planning commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases. The provisions of any ordinance, planning commission regulation or statute relating to subdivisions which are in conflict with this section are hereby superseded; and

10. The planning commission may require the developer of such property to reserve appropriate utility easements for water, sewer and any other utility installations as may be required for present and future development.

D. Any person, partnership or corporation violating any of the provisions of Sections 46-101 through 46-104 of this title, upon conviction thereof, shall be fined not less than Two Hundred Dollars ($200.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned in the county jail for a term not less than thirty (30) days, nor more than six (6) months, or may be subjected to both such fine and imprisonment.

Added by Laws 1977, c. 256, § 46-104, eff. July 1, 1978. Amended by Laws 1978, c. 126, § 2, eff. July 1, 1978.

§11-46-105. Suit to challenge action, decision, ruling or order of regional planning commission – Timing.

Any suit to challenge any action, decision, ruling or order of the regional planning commission under the provisions of this article shall be filed with the district court within thirty (30) days from the action, decision, ruling or order.

Added by Laws 2004, c. 314, § 4, eff. Nov. 1, 2004.

§11-47-101. Application and definitions.

The provisions of Sections 47-101 through 47-124 of this title are applicable to all cities which have a population of not less than two hundred thousand (200,000) according to the latest federal census. The following terms, when used in this article, shall have the meanings respectively provided for them in this section:

1. "Municipality" means any incorporated city of over two hundred thousand (200,000) population;

2. "Mayor" means the chief executive of the municipality, whether the official designation of his office be mayor, city manager, or otherwise;

3. "Council" means the chief legislative body of the municipality;

4. "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts, and other ways;

5. "Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided; and

6. "Commission" means the city planning commission.

Laws 1977, c. 256, § 47-101, eff. July 1, 1978.

§11-47-102. Grant of power to municipality.

Any municipality may make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this article and create by ordinance a planning commission with the powers and duties herein set forth. The planning commission shall be designated as the city planning commission.
Laws 1977, c. 256, § 47-102, eff. July 1, 1978.

§11-47-103. City planning commission - Membership.

The city planning commission shall consist of nine (9) members to be appointed by the mayor, if the mayor be an elective officer, otherwise by such officer as the council may designate as the appointing power in the ordinance creating the commission. In a municipality which is divided into wards or other subdivisions for the election of members of the council, one member shall be appointed to the planning commission from each of the wards or subdivisions. All members of the commission shall serve as such without compensation, and the members shall hold no other municipal office, except that one member may be a member of the zoning board of adjustment or appeals and no more than four members may serve on design committees or commissions. The term of each member shall be six (6) years or until his or her successor is appointed and qualified; except that when the commission is first appointed, the respective terms of three of the members shall be three (3), four (4) and five (5) years. Members may be removed by the mayor, after a public hearing, for inefficiency, neglect of duty, or malfeasance in office. The mayor shall file a written statement of reasons for the removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor or by the appointing power designated by the council in municipalities in which the mayor is not an elective officer.
Added by Laws 1977, c. 256, § 47-102, eff. July 1, 1978. Amended by Laws 2009, c. 30, § 1, eff. Nov. 1, 2009.

§11-47-104. Organization and rules.

The commission shall elect a chairman and create and fill other of its offices as it may determine. The term of chairman shall be one (1) year, with eligibility for re-election. The commission shall hold at least one regular meeting each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.
Laws 1977, c. 256, § 47-104, eff. July 1, 1978.

§11-47-105. Staff and finances.

The commission may recommend such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern

other corresponding civil employees of the municipality. The commission may also recommend to the council the employment of city planners, engineers, architects, and consultants for such other services as it may require. The council may provide funds for the salaries of employees and the expenses of the planning commission as for other functions of the municipality.
Laws 1977, c. 256, § 47-105, eff. July 1, 1978.

§11-47-106. General powers and duties.

It shall be the function and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any area outside its boundaries which in the commission's judgment bear relation to the planning of the municipality. The commission may cooperate with any county planning commission having planning jurisdiction over such unincorporated areas in connection with the preparation of that portion of the master plan covering those areas. The plan, with the accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of the territory, including among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, water fronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces; the general location of public buildings and other public property; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, or property; as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. As the work of making the whole master plan progresses, the commission from time to time may adopt and publish a part or parts thereof, any such part to cover one or more major sections or divisions of the municipality, or one or more of the matters listed above or other functional matters to be included in the plan. The commission may amend, extend, or add to the plan from time to time.
Laws 1977, c. 256, § 47-106, eff. July 1, 1978.

§11-47-107. Purposes of the plan.

In preparation of the plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will best promote, in accordance with present and future needs, health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for

traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.
Laws 1977, c. 256, § 47-107, eff. July 1, 1978.

§11-47-108. Procedure of commission in adopting the plan.

The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, the parts corresponding with major geographical sections or divisions of the municipality or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality. The adoption of the plan or of any part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of a majority of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman or secretary of the commission. An attested copy of the plan or part thereof shall be certified to the council.
Laws 1977, c. 256, § 47-108, eff. July 1, 1978.

§11-47-109. Legal status of official plan - Approval by commission.

Whenever the commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof no street, square, park, or other public way, ground, or open space, or public building or structure, or other government enterprise, shall be constructed or authorized in the municipality or in the planned section and district until the location, character and extent thereof shall have been submitted to and approved by the commission. In the case of disapproval, the commission shall communicate its specific findings and reasons for disapproval in writing to the council, which shall have the power to overrule the disapproval by a recorded vote of not less than two-thirds of all its members. If the authorization or financing of the public way, ground, space, building, structure, or other governmental enterprise, does not fall within the province of the council, under the law or charter provisions governing same, the submission to the commission shall be by the board, commission or body having jurisdiction, and the commission's disapproval may be overruled by the board, commission or body having jurisdiction by a

vote of not less than two-thirds of all its members. If the sponsoring agency is appointive and not elected, the disapproval of the commission cannot be overridden except by a vote of not less than two-thirds of all the members of the council. The failure of the commission to act within sixty (60) days after the date of official submission to the commission shall be deemed approval.
Laws 1977, c. 256, § 47-109, eff. July 1, 1978.

§11-47-110. Overruling planning commission action by council.

Any action of the commission as set forth in any report, recommendation, order or decision of the commission, which, by law, is required to be submitted to the council for approval, disapproval or further action, may be overruled by the council only by the vote of not less than a majority of the entire membership of such council.
Laws 1977, c. 256, § 47-110, eff. July 1, 1978.

§11-47-111. Miscellaneous powers and duties of commission.

The commission shall have power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the council, by resolution spread upon its minutes, may authorize and pay the reasonable traveling expenses incident to attendance at authorized meetings. The commission from time to time shall recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, education, professional and other organizations, and with citizens with relation to the protecting or carrying out of the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall furnish the commission, upon request and within a reasonable time, available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have the powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this article.
Laws 1977, c. 256, § 47-111, eff. July 1, 1978.

§11-47-112. Transfer of zoning powers and duties to planning commission.

In order to avoid a multiplicity of boards and commissions and to avoid a duplication of functions, the council may transfer to the city planning commission all of the powers and duties of any zoning commission or planning commission now existing and may authorize the city planning commission to exercise the powers and to perform the duties relative to the formulation of zoning regulations which are now authorized by law. The provisions of this article shall not be construed as a general grant of power to municipalities to create districts and regulate buildings and land uses therein, but that power shall continue as may be authorized by law.
Laws 1977, c. 256, § 47-112, eff. July 1, 1978.

§11-47-113. Scope of control of subdivisions - Review of plats.

After a city planning commission is organized, all maps, plats, replats, and subdivisions of land into lots, blocks, streets and alleys shall be submitted to the commission, and no map or plat of land within the jurisdiction of the commission shall be filed or recorded until it shall have been approved by the commission and the approval entered in writing on the plat by the chairman or secretary of the commission.
Laws 1977, c. 256, § 47-113, eff. July 1, 1978.

§11-47-114. Subdivision regulations.

A. Before the commission may exercise jurisdiction over subdivision of land, it shall adopt regulations governing the subdivision of land within its jurisdiction. The regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, or for the avoidance of congestion of population, including minimum width and area of lots.

B. The regulations on subdivision of land may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable for failure to comply with commitments on which the tentative approval was based, and shall not be entered on the plat. In lieu of the completion of any improvements and utilities prior to the final approval of the plat, the commission may accept an adequate bond satisfactory to the commission, with surety, to secure to the municipality the actual construction and installation of the improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission, and

further conditioned that the developer will pay for all material and labor entering into the construction of the improvements. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

C. Nothing in this section shall be construed as granting to any municipality or city planning commission the power to direct any public utility to extend its services to any particular area.

D. All regulations governing the subdivision of land shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon.
Added by Laws 1977, c. 256, § 47-114, eff. July 1, 1978.

§11-47-115. Procedure for approval of plats.

The commission shall approve or disapprove a plat within thirty (30) days after it has been submitted to the commission; otherwise the plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand. The applicant for the commission's approval may waive the thirty-day requirement and consent to an extension of the period. The ground for disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address for a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the person at the address by registered mail of the time and place of the hearing not less than five (5) days before the date fixed therefor. Similar notice shall be mailed by first-class mail to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county clerk's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county. Every plat approved by the commission, by virtue of the approval, shall be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The commission from time to time may recommend to the council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the municipality. The requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions

and penalties and subject to the same power or amendment or repeal as though set out as a part of the zoning ordinance or map of the municipality.
Added by Laws 1977, c. 256, § 47-115, eff. July 1, 1978. Amended by Laws 1998, c. 234, § 5, eff. Nov. 1, 1998.

§11-47-116. Unapproved plats not entitled to record.

A. No plat, replat, or subdivision of land within the jurisdiction of the commission shall be entitled to record unless it bears the written approval of the commission. No deed referring to the unapproved plat shall be entitled to record and, if recorded, shall not import notice.

B. No deed describing land by metes and bounds which conveys land within the jurisdiction of the commission in a tract of five (5) acres or less shall be entitled to record and, if recorded, shall not import notice, unless one of the following conditions is met:

1. The deed bears the written approval of the commission; or

2. A preceding title transaction of record bears the written approval of the commission of the metes and bounds description in the subsequent deed.

C. The provisions of subsections A and B of this section shall not apply to any plat, replat, subdivision or deed which has been recorded prior to annexation by the municipality, or to any deed or other conveyance of unplatted property covering all of the unplatted property acquired by the grantor in a single conveyance if the grantor's deed has been filed of record for five (5) years or more.
Added by Laws 1977, c. 256, § 47-116, eff. July 1, 1978. Amended by Laws 1978, c. 65, § 1, eff. July 1, 1978.

§11-47-117. Improvements in unapproved streets.

The municipality shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains or sewers or utility connections to be laid in any street, within any portion of territory for which the commission shall have adopted a major street plan, unless the street:

1. Shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the adoption of the street plan; or

2. Corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the commission or with a street on a street plat made by and adopted by the commission. However, the council may accept any street not shown on or not corresponding with a street on the official master plan or on an approved subdivision plat or an approved street plat, provided the ordinance or other measure accepting such street be first submitted to the city planning commission for its approval, and, if approved by the commission, be enacted or passed by not less than a majority of

all the members of the council. If the ordinance or other measure accepting such street is disapproved by the commission, the ordinance or measure may be enacted or passed by not less than two-thirds of all the members of the council. A street approved by the commission upon submission by council, or a street accepted by two-thirds vote after disapproval by the commission, shall thereupon have the status of an approved street as fully as though it had been originally shown on the official master plan or on a subdivision plat approved by the commission or had been originally platted by the commission.
Laws 1977, c. 256, § 47-117, eff. July 1, 1978.

§11-47-118. Erection of buildings.

After the city planning commission has adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, no building shall be erected on any lot within the territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which the building is proposed to be placed:

1. Shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time; or

2. Corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the commission or with a street accepted by council, after submission to the commission, by the favorable vote required in Section 47-117 of this title.

Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector or other appropriate official may cause it to be vacated and have it removed.
Laws 1977, c. 256, § 47-118, eff. July 1, 1978.

§11-47-119. Use of certain private roadways - Dedication, repair and maintenance of roadways - Building permits.

A. A municipality situated in three or more counties which contains large areas of rural land not served by water and sewer facilities by the municipality shall recognize and permit the use of private roadways in either platted or unplatted areas consisting of ten (10) acres or less and shall issue building permits to owners of property abutting upon the private roadways without complying with standards as provided for dedicated streets under the following conditions:

1. The private roadway easement shall be at least fifty (50) feet in width;

2. The property abutting the private roadway shall contain not less than two (2) acres;

3. The property shall be more than one-fourth (1/4) mile from sewer and water facilities furnished by the municipality;

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;

5. The private roadway shall be maintained by the owners of the property within the subdivision;

6. The municipality shall have no responsibility for the maintenance and repair of the private roadway;

7. If the property is platted, there shall be emblematized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public, and that the streets shall be maintained by the private property owners within the subdivision, but that the streets shall always be open to police, fire, and other official vehicles of all state, federal, county, and municipal agencies;

8. Every deed shall clearly acknowledge that the roadway is private and not maintained by the municipality; and

9. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance to the subdivision: "Private roadway not maintained by _____ (the municipality)". At any time after the municipality recognizes and permits the use of such private roadway, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby, to permanently improve the street or roadway in compliance with the requirements of the municipality. All other ordinances and planning commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases.

B. Multiple subdivisions divided into contiguous ten-acre tracts shall not qualify for the private road exemption provided for in subsection A of this section.

Added by Laws 1977, c. 256, § 47-119, eff. July 1, 1978 Amended by Laws 1983, c. 312, § 1, emerg. eff. June 27, 1983; Laws 2007, c. 193, § 1, eff. Nov. 1, 2007.

§11-47-120. Status of existing platting statutes.

After a city planning commission has control over subdivision as provided in Section 47-114 of this title, the jurisdiction of the commission, as herein conferred over plats shall be exclusive within the territory under its jurisdiction.

Laws 1977, c. 256, § 47-120, eff. July 1, 1978.

§11-47-121. Building line ordinance.

After any plan for major streets, or portions thereof, has been prepared and adopted by a city planning commission, the council shall be authorized and empowered to establish, regulate and limit building or setback lines on such major streets by ordinance and to prohibit

any new building being located within the building or setback lines, and to amend such regulations from time to time.
Laws 1977, c. 256, § 47-121, eff. July 1, 1978.

§11-47-122. Enforcement of building line ordinance - Board of adjustment - Appeals.

The council shall provide for the method by which its building or setback regulations shall be enforced and shall provide for a board of adjustment with powers to modify or vary the regulations, in specific cases, in order that unwarranted hardships, which constitute an unreasonable deprivation or use as distinguished from the mere grant of a privilege, may be avoided, the intended purpose of the regulations being strictly observed and the public welfare and public safety protected. If there is a board of zoning adjustment such board shall be appointed to serve as the board of adjustment for the building or setback line regulations. Regulations authorized under the provisions of this section shall not be adopted, changed or amended until a public hearing has been held thereon by the commission, public notice of which shall be given in the manner provided by law. Appeals may be taken from any order, regulation or action of a board of adjustment as provided in this section in the manner provided by law for appeals from orders of the board of adjustment in zoning cases.
Laws 1977, c. 256, § 47-122, eff. July 1, 1978.

§11-47-123. Saving vested rights.

In any instance where it is shown that the application of the terms of Sections 47-101 through 47-124 of this title, or any proposed action hereunder, will be in material conflict with any accrued vested right so that it would, if applied to the particular property involved, result in substantial harm, loss, damage or impairment, such right shall be preserved, recognized and given effect and may be protected by any remedy herein provided for.
Laws 1977, c. 256, § 47-123, eff. July 1, 1978.

§11-47-124. Judicial review.

A judicial review in the district court in the county in which the situs of the municipality is located may be had of any ruling, regulation, interpretation, order, requirement, refusal, permit, approval, or decision made under the terms of this article when such action is alleged to be arbitrary, unreasonable or capricious, and that by reason thereof such action has, or if enforced, will work an unnecessary hardship on or create substantial harm or loss to the complaining party.
Laws 1977, c. 256, § 47-124, eff. July 1, 1978.

§11-48-101. Authorization to provide retirement fund and system.

The governing body of any municipality may provide by ordinance for a retirement fund and system for any or all of its employees and the employees of a duly constituted authority of the municipality which are not otherwise provided for by a pension or retirement system. The governing body may establish said retirement system as delayed compensation in order to encourage continuous and meritorious service on the part of employees and thereby promote public efficiency, and may provide retirement allowances and other benefits for said employees, their surviving spouses, and surviving children. The retirement fund and system may include all municipal employees whether they are engaged in a governmental or nongovernmental function of the municipality or the municipal authority. The retirement fund shall be supported wholly by the municipality or municipal authority or by joint contributions by the municipality or authority and the employee to be benefited.
Amended by Laws 1984, c. 126, § 81, eff. Nov. 1, 1984.

§11-48-102. Control and management of system.

Every municipality or municipal authority establishing a retirement fund and system is authorized and directed to provide for the control and management of the system by ordinance. The ordinance shall provide, in addition to other provisions, for:

1. The qualifications of the persons eligible for retirement benefits;

2. The minimum age for retirement of employees;

3. The limitations of the amounts to be paid to persons eligible for retirement benefits;

4. A Board of Trustees to administer the fund, and the duties, membership and powers of such board;

5. The amount of contributions to be made by the municipality or authority, and the amount to be made by the employee, if any; and 6. Such rules and regulations as the municipality or authority shall determine necessary for the proper regulation of the retirement system and fund.

The retirement fund and system shall be known as the "Employee Retirement System of _____ (name of municipality), Oklahoma" and by such name all of its business shall be transacted, all funds handled and all of its cash and securities and other property held. Any municipality or any municipal authority may combine or pool by contract with other municipalities and authorities pension and retirement funds for purposes of management and investment, and may create a single board of trustees for such purposes. The provisions of this section shall not apply to Firemen's Relief and Pension Funds nor to Police Pension and Retirement System funds.
Laws 1977, c. 256, § 48-102, eff. July 1, 1978.

§11-48-103. Fund required in every municipality - Payments exempt from attachment, etc. - Exception of qualified domestic orders.

A. Every municipality establishing a retirement fund and system shall provide a fund or contribute to a fund which shall be paid to and received by the municipal treasurer along with funds received from a duly constituted authority of the municipality for the use and benefit of the persons eligible for retirement benefits in such amount as the municipality shall provide by ordinance.

B. Money on hand in this fund shall not be available for any other purpose and shall not be used for any purpose other than for retirement benefits to eligible persons.

C. Except as otherwise provided by this section, sums of money due or to become due to any employee or retired employee shall not be liable to attachment, garnishment, levy, or seizure in any manner under any legal or equitable process, whether such sums remain in the hands of the treasurer of the retirement system or of any official or agent of the retirement system, or are in the course of transmission to the employee or retired employee entitled thereto, but shall inure wholly to the benefit of such employee or retired employee.

D. 1. The provisions of subsection C of this section shall not apply to a qualified domestic order as provided in this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state, pursuant to the domestic relations laws of the State of Oklahoma, which relates to the provision of marital property rights to a spouse or former spouse of a member of any retirement fund created pursuant to subsection A of this section, or to the provision of support for a minor child or children, and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member and amounts payable to a plan participant of any retirement plan created pursuant to subsection A of this section.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the municipality and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address, if any, of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the retirement system to the alternate payee,

c. the number of payments or period to which such order applies,
d. the characterization of the benefit as to marital property rights or child support, and
e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the retirement system to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the retirement system,
b. does not require the retirement system to provide increased benefits, and
c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the retirement plan as a valid order prior to the effective date of this section.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the retirement system to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules promulgated thereunder and court cases interpreting said act.

10. The municipality may adopt such provisions as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order shall fully comply with all provisions of the requirements imposed by the municipality pursuant to this section in order to continue receiving benefits.

E. This fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the Excise Board for needed appropriations.

Added by Laws 1977, c. 256, § 48-103, eff. July 1, 1978. Amended by Laws 1998, c. 198, § 1, eff. Nov. 1, 1998.

§11-48-104. Annual appropriations.

Any municipality establishing a retirement fund and system may appropriate annually such sums as may be deemed necessary or desirable by the municipal governing body to the retirement fund and for the sole use of the retirement fund. The sums so appropriated

shall be paid to the fund as other payments are made from municipal funds.
Laws 1977, c. 256, § 48-104, eff. July 1, 1978.

§11-48-105. Prorating of fund in event of insufficiency.
If the funds in any retirement system are insufficient to make full payment of the amount of retirement benefits or allowances to any eligible persons under the rules and regulations of the municipality, then the fund shall be prorated among those entitled thereto as the board of trustees administering the fund shall determine to be just and equitable.
Laws 1977, c. 256, § 48-105, eff. July 1, 1978.

§11-48-106. Authorization to enact necessary ordinances.
The municipal governing body may enact any and all ordinances necessary to accomplish the purposes of this article.
Laws 1977, c. 256, § 48-106, eff. July 1, 1978.

§11-49-100.1. Definitions.
As used in this article:
1. "System" means the Oklahoma Firefighters Pension and Retirement System and all predecessor municipal firefighters pension and retirement systems;
2. "Article" means Article 49 of this title;
3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;
4. "Local board" means the local firefighters pension and retirement boards;
5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;
6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one (1) year, and such services are performed under primary

direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day following the date the member completes twenty (20) years of credited service. For a member whose first employment with a participating employer of the System occurs on or after November 1, 2013, such date shall be the first day following the date the member completes twenty-two (22) years of credited service and has attained the age of at least fifty (50) years. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service, or with respect to members who are required to complete twenty-two (22) years of service, the first day following the date the member terminates employment with more than twenty-two (22) years of service and who has also attained the age of at least fifty (50) years;

8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems; provided, however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982;

9. "Participating municipality" means a municipality, county fire department organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes, or fire protection district which is making contributions to the System on behalf of its firefighters. All participating municipalities shall appoint a fire chief who shall supervise and administer the fire department;

10. "Disability" means the complete inability of the firefighter to perform any and every duty of the firefighter's regular occupation; provided further, that once benefits have been paid for twenty-four (24) months the provisions of Section 49-110 of this title shall apply to the firefighter;

11. "Executive Director" means the managing officer of the System employed by the State Board;

12. "Eligible employer" means any municipality with a municipal fire department, any county fire department organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes or any fire protection district with an organized fire department;

13. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

14. "Final average salary" means the average paid gross salary of the firefighter for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Gross salary shall not include payment for accumulated sick or annual leave upon termination of employment, any uniform allowances or any other compensation for reimbursement of out-of-pocket expenses. Only salary on which the required contributions have been made may be used in computing the final average salary. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce the member's regular cash remuneration under 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. Only salary on which required contributions have been made may be used in computing final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars ($200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a

determination period consists of fewer than twelve (12) months, the EGTRRA salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this subsection, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

For plan years beginning on or after July 1, 2002, any reference to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA salary limit set forth in this subsection.

Effective June 9, 2010, gross salary shall also include gross salary, as described above, for services, but paid by the later of two and one-half (2 1/2) months after a firefighter's severance from employment or the end of the calendar year that includes the date the firefighter terminated employment, if it is a payment that, absent a severance from employment, would have been paid to the firefighter while the firefighter continued in employment with the participating municipality.

Effective June 9, 2010, any payments not described above shall not be considered gross salary if paid after severance from employment, even if they are paid by the later of two and one-half (2 1/2) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except payments to an individual who does not currently perform services for the participating municipality by reason of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the participating municipality rather than entering qualified military service.

Effective June 9, 2010, back pay, within the meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as gross salary for the year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

Effective for years beginning after December 31, 2008, gross salary shall also include differential wage payments under Section 414(u)(12) of the Internal Revenue Code of 1986, as amended;

15. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the firefighter's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

16. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death provided a surviving spouse of a

member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the marriage limitation for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

17. "Accumulated contributions" means the sum of all contributions made by a member to the System and includes both contributions deducted from the compensation of a member and contributions of a member picked up and paid by the participating municipality of the member. Accumulated contributions shall not include any interest on the contributions of the member, interest on any amount contributed by the municipality or state and any amount contributed by the municipality or state; and

18. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

Added by Laws 1980, c. 352, § 1, eff. Jan. 1, 1981. Amended by Laws 1982, c. 320, § 1, operative July 1, 1982; Laws 1985, c. 222, § 1, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 142, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 1, operative July 1, 1988; Laws 1990, c. 143, § 1, emerg. eff. May 1, 1990; Laws 1991, c. 323, § 1, emerg. eff. June 12, 1991; Laws 1992, c. 390, § 1, emerg. eff. June 9, 1992; Laws 1993, c. 126, § 1, emerg. eff. May 3, 1993; Laws 1994, c. 84, § 1, eff. July 1, 1994; Laws 1994, c. 300, § 1, eff. July 1, 1994; Laws 1996, c. 208, § 1, emerg. eff. May 21, 1996; Laws 1998, c. 299, § 1, emerg. eff. May 28, 1998; Laws 1999, c. 193, § 1, eff. July 1, 1999; Laws 2000, c. 327, § 1, eff. July 1, 2000; Laws 2002, c. 398, § 1, eff. July 1, 2002; Laws 2003, c. 128, § 1, eff. July 1, 2003; Laws 2010, c. 438, § 1, emerg. eff. June 9, 2010; Laws 2011, c. 279, § 1, emerg. eff. May 19, 2011; Laws 2012, c. 364, § 1; Laws 2013, c. 165, § 1, eff. Nov. 1, 2013; Laws 2013, c. 388, § 2, eff. Nov. 1, 2013.

§11-49-100.2. Firefighters Pension and Retirement System - Creation - Powers and duties.

There is created the Oklahoma Firefighters Pension and Retirement System which shall be a body corporate and an instrumentality of this state. The System shall be vested with the powers and duties

specified in this article and such other powers as may be necessary to enable it and its officers and employees to carry out fully and effectively the purposes and intent of this article. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System or defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purpose or purposes. This System shall be the responsibility of the state and not that of the participating municipalities. The System is a qualified governmental retirement plan under Sections 401(a) and 414(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C.A. §§ 401, 414) and Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.A. §1002(32)). The Board shall administer the System in order to comply with the applicable provisions of the Internal Revenue Code of 1986, as amended.
Added by Laws 1980, c. 352, § 2, eff. Jan. 1, 1981. Amended by Laws 2000, c. 327, § 2, eff. July 1, 2000; Laws 2002, c. 398, § 2, eff. July 1, 2002.

§11-49-100.3. Firefighters Pension and Retirement Board.

A. There shall be an Oklahoma Firefighters Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Five members shall be the Board of Trustees of the Oklahoma Firefighters Association;

2. One member shall be the President of the Professional Fire Fighters of Oklahoma or his designee. The designee shall be a member of the Professional Fire Fighters of Oklahoma;

3. One member shall be the President of the Oklahoma State Retired Fire Fighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Fire Fighters Association;

4. One member shall be appointed by the Speaker of the House of Representatives;

5. One member shall be appointed by the President Pro Tempore of the Senate;

6. Two members shall be appointed by the President of the Oklahoma Municipal League;

7. One member shall be the State Insurance Commissioner or his designee; and

8. One member shall be the Director of the Office of Management and Enterprise Services or his designee.

B. 1. The terms of office of the members appointed to the State Board by the President of the Oklahoma Municipal League who are members of the State Board on the operative date of this act shall expire on July 1, 1989. The members appointed to fill the positions

that expire on July 1, 1989, shall serve initial terms of office as follows:

a. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990; and

b. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1992.

Thereafter, the terms of office of the members of the State Board appointed by the President of the Oklahoma Municipal League shall be four (4) years.

2. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act shall expire on January 3, 1989. The members thereafter appointed shall serve terms of office of four (4) years.

3. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment was made.

C. Those members appointed to the State Board by the President of the Oklahoma Municipal League, the Speaker of the House of Representatives and the President Pro Tempore of the Senate or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management; or

2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management; or

3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

4. Be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the

State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

G. Prior to February 6, 1995, the State Board shall be prevented from making any payment or granting any benefit, with the exception of disability benefits for which provisions are otherwise made in Section 49-100.1 et seq. of this title, the actuarial liability for which has not been included in such Board's annual actuarial report prior to May 1, 1994.

H. The State Board shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.
Added by Laws 1980, c. 352, § 3, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 1, operative July 1, 1988; Laws 1994, c. 383, § 1, eff. July 1, 1994; Laws 2004, c. 536, § 1, eff. July 1, 2004; Laws 2012, c. 304, § 46.

§11-49-100.4. Meetings - Special meetings - Notice - Quorum - Per diem - Expenses.

A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight (8) members of the State Board. Notice of a special meeting shall be delivered to all State Board members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven (7) State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven (7) State Board members at a regular or special meeting of the State Board.

C. Members shall receive per diem at the rate of Twenty-five Dollars ($25.00) per day for each day in session and shall be reimbursed for necessary expenditures including mileage to and from meetings in accordance with the State Travel Reimbursement Act, which shall be paid as an operating expense from the appropriate operating fund of the System.
Amended by Laws 1988, c. 321, § 2, operative July 1, 1988.

§11-49-100.5. Office facilities - Records - Inspection - Financial statement - Audits.

A. The principal office of the System shall be in Oklahoma City, Oklahoma. Offices shall be assigned to the System by the Office of Management and Enterprise Services. Upon the failure or inability of the Office of Management and Enterprise Services to provide adequate facilities, the State Board is hereby authorized to contract for necessary office space in suitable quarters.

B. The State Board shall keep a record of all of its proceedings, which shall be open for inspection at all reasonable hours. A report including such information as the operation of the System for the past fiscal year, including income, disbursements, and the financial condition of the System at the end of each fiscal year and showing the valuation of its assets, investments, and liabilities, shall be delivered to the Governor after the end of each fiscal year but prior to October 1 of the next fiscal year and made available to the firefighters and participating municipalities.

C. The State Auditor and Inspector shall make an annual audit of the accounts of the System. The audit shall be filed as soon after the close of the fiscal year as practicable, in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1980, c. 352, § 5, eff. Jan. 1, 1981. Amended by Laws 1983, c. 304, § 6, eff. July 1, 1983; Laws 1985, c. 222, § 2, emerg. eff. July 8, 1985; Laws 1996, c. 290, § 2, eff. July 1, 1996; Laws 2012, c. 304, § 47.

§11-49-100.6. Executive Director - Employees - Acceptance of gifts and gratuities - Actuary - Legal services.

A. The State Board shall appoint an Executive Director. Subject to the policy direction of the State Board, the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

C. The members of the State Board, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of the amount per year permitted by the Ethics Commission for all state officials and employees pursuant to Rule 257:20-1-9(b) of the Ethics Commission Rules. The provisions of this section shall not be construed to

prevent the members of the State Board, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

D. The State Board may select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary may at the direction of the State Board:

1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this article, and recommend to the State Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis;

2. As soon after the effective date of this act or as deemed necessary by the State Board, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and

3. Perform such other duties as may be assigned by the State Board.

E. The State Board shall retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the State Board for such compensation as set by the State Board. The Attorney General of the state shall furnish such legal services as may be required by the State Board.

Added by Laws 1980, c. 352, § 6, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 3, operative July 1, 1988; Laws 1994, c. 383, § 2, eff. July 1, 1994; Laws 2000, c. 327, § 3, eff. July 1, 2000.

§11-49-100.7. Administration of System - Rules and regulations - Accounts and records - Open meetings - Actuarial tables - Decisions of Board - Actions - Electronic media use.

A. The State Board shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this article.

B. The State Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be filed with the Secretary of State.

C. The State Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

D. All meetings of the State Board shall be open to the public. The State Board shall keep a record of its proceedings.

E. The State Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary

and may compile such additional data as may be necessary for required actuarial valuation calculations.

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

G. The State Board shall take all necessary action upon applications for pensions, disability benefits, refund of accumulated contributions and shall take action on all other matters deemed necessary by the State Board, including bringing actions for declaratory relief in the district courts in the state to enforce the provisions of applicable state law.

H. On or after July 1, 2011, the State Board may permit, effective for applicable notices, elections and consents provided or made for a member, beneficiary, alternate payee or individual entitled to benefits under the System, the use of electronic media to provide such applicable notices and make such elections and consents as described in Section 1.401(a)-21 of the Income Tax Regulations.

I. The State Board shall develop such procedures and may require such information from the distributing plan as it deems necessary to reasonably conclude that a potential rollover contribution is a valid rollover contribution under Section 1.401(a)(31)-1, Q&A-14(b)(2), of the Income Tax Regulations.

Added by Laws 1980, c. 352, § 7, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 3, emerg. eff. July 8, 1985; Laws 1988, c. 321, § 4, operative July 1, 1988; Laws 2006, 2nd Ex. Sess., c. 46, § 11, eff. July 1, 2006; Laws 2012, c. 364, § 2; Laws 2015, c. 367, § 1, emerg. eff. June 4, 2015.

§11-49-100.8. Certified estimate of rate of contribution required, accumulated contributions and other assets of System.

The State Board shall certify to the Director of the Office of Management and Enterprise Services, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before July 15 of each year, an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System to pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, 2014.

Added by Laws 1982, c. 320, § 6, operative July 1, 1982. Amended by Laws 1983, c. 143, § 5, emerg. eff. May 26, 1983; Laws 1988, c. 267, § 2, operative July 1, 1988; Laws 2003, c. 334, § 1, emerg. eff. May 29, 2003; Laws 2012, c. 304, § 48; Laws 2014, c. 281, § 2, emerg. eff. May 12, 2014.

§11-49-100.9. Duties of Board.

A. The Oklahoma Firefighters Pension and Retirement Board shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

a. providing benefits to participants and their beneficiaries, and

b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction

shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services and any related custodial agreement or trust agreement is incorporated herein by reference. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. Any assets of the System may be invested in a collective investment fund or group trust that satisfies the requirements of Revenue Ruling 81-100, as further amended by Revenue Ruling 2004-67, Revenue Ruling 2008-40, and Revenue Ruling 2011-1, and as subsequently amended by future guidance. Each such collective investment fund or group trust is adopted, with respect to any monies invested therein, as part of the System, its trust, and custodial account and each such declaration of trust or trust agreement and related adoption, participation, investment management, subtrust or other agreements, as amended from time to time, with respect to any monies invested therein, are incorporated by reference into the System, its trust agreement(s) or custodial agreement(s), upon approval by the State Board.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the State Board shall develop a written investment plan for the System.

G. The State Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The State Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the State Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative

Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before December 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year.

I. Effective July 1, 2000, the State Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended. Added by Laws 1988, c. 321, § 5, operative July 1, 1988. Amended by Laws 1992, c. 354, § 1; Laws 1995, c. 81, § 1, eff. July 1, 1995; Laws 2000, c. 327, § 4, eff. July 1, 2000; Laws 2002, c. 391, § 3, eff. July 1, 2002; Laws 2006, 2nd Ex.Sess., c. 46, § 12, eff. July 1, 2006; Laws 2011, c. 379, § 2, eff. Sept. 1, 2011; Laws 2012, c. 364, § 3.

§11-49-100.10. Duties of fiduciaries.

A. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;

2. lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall not:

1. deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. in the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System may:

1. invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the Oklahoma Firefighters Pension and Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;

2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the System.

Added by Laws 1988, c. 321, § 6, operative July 1, 1988. de

§11-49-100.11. Deposits of contributions and dedicated revenues - Warrants and vouchers.

A. All employee and employer contributions and dedicated revenues shall be deposited in the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters

Pension and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System from the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Firefighters Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection. Added by Laws 1988, c. 321, § 7, operative July 1, 1988.

§11-49-101. Right to pension - Amount.

A. All retired volunteer fire fighters who qualify for retirement shall be entitled to a monthly pension. The monthly pension of a volunteer fire fighter shall be in the amount retired volunteer fire fighters are receiving at the time the volunteer fire fighter begins to receive a pension for each year of credited service not to exceed thirty (30) years. In determining the number of years of credited service, a fractional year of six (6) months or more shall be counted as one (1) full year and a fractional year of less than six (6) months shall not be counted in such determination. Retired volunteer fire fighters of a municipality shall receive a pension of not less than that which retired volunteer fire fighters of such municipality were receiving on June 30, 1985.

B. If a volunteer fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, terminates service after completing ten (10) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, shall be entitled to a monthly pension commencing on the date the fire fighter reaches fifty (50) years of age or the date the fire fighter would have had twenty (20) years of credited service had the fire fighter's service continued uninterrupted, whichever is later. If a volunteer fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, terminates service after completing eleven (11) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, shall be entitled to a monthly pension commencing on the date the fire fighter reaches fifty (50) years of age or the date the fire fighter would have had twenty-two

(22) years of credited service had the fire fighter's service continued uninterrupted, whichever is later. The monthly amount of such retirement benefit shall be the amount being paid to volunteer fire fighters at the time the member vests multiplied by the number of years of credited service. Credited service must be established at the time of the volunteer fire fighter's termination. If a volunteer fire fighter who terminates employment and receives a vested benefit dies prior to being eligible to receive benefits, the volunteer fire fighter's beneficiary shall be entitled to the volunteer fire fighter's normal monthly retirement benefit on the date the deceased volunteer fire fighter would have been eligible to receive the benefit.
Added by Laws 1977, c. 256, § 49-101, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 8, eff. Jan. 1, 1981; Laws 1981, c. 224, § 1, emerg. eff. June 22, 1981; Laws 1983, c. 143, § 4, emerg. eff. May 26, 1983; Laws 1985, c. 222, § 4, emerg. eff. July 8, 1985; Laws 1986, c. 187, § 1, operative July 1, 1986; Laws 1987, c. 236, § 143, emerg. eff. July 20, 1987; Laws 1993, c. 126, § 2, emerg. eff. May 3, 1993; Laws 2013, c. 388, § 3, eff. Nov. 1, 2013.

§11-49-101.1. Purchase of credited service.

An eligible employer joining the Oklahoma Firefighters Pension and Retirement System on or after July 1, 2000, may purchase up to five (5) years of credited service for each volunteer member of a volunteer fire department at the annual contribution rate in effect as of the date of the purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though the participating municipality is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credited service. Payment for purchased credited service must be received by the System within six (6) months of the date the eligible employer becomes a participating municipality, and may be paid by the individual member. Six (6) months from the date the eligible employer becomes a participating municipality, any eligible prior credited service not purchased shall expire and not be available for determining benefits. Eligibility to receive purchased credited service shall be limited to those members of the new volunteer fire department enrolled at the time the eligible employer applies for affiliation with the System pursuant to Section 49-105.2 of Title 11 of the Oklahoma Statutes.
Added by Laws 2000, c. 327, § 5, eff. July 1, 2000.

§11-49-101.2. Certain volunteers to be considered paid firefighters - Physical and agility requirements - Fire chief qualifications.

Any member serving as an active volunteer firefighter who receives annual compensation from the fire department the firefighter is enrolled in as a member of the System for services related to

firefighting, other than reimbursement of expenses in excess of two (2) times the annual pension benefit paid by the System to a retired volunteer firefighter with twenty (20) years credited service, shall be considered a paid firefighter and must meet the physical and agility requirements pursuant to Section 49-116 of this title to continue as an active member of the System. Credited service earned as a paid firefighter pursuant to this section shall not be considered actual experience as a paid firefighter for purposes of meeting the qualifications of a paid fire chief as provided in Section 29-102 of this title. No fire department of a participating municipality shall employ a volunteer firefighter from another fire department to perform services relating to firefighting for any compensation of any kind.
Added by Laws 2000, c. 327, § 6, eff. July 1, 2000. Amended by Laws 2003, c. 460, § 7, eff. July 1, 2003; Laws 2004, c. 546, § 1, eff. July 1, 2004; Laws 2012, c. 364, § 4.

§11-49-102. Consolidation or annexation - Pension rights.

Whenever two or more adjacent municipalities participating in the System shall be made one, either by consolidation or annexation, those funds and those persons receiving benefits under the System shall be transferred to the new or surviving participating municipality and those persons receiving said benefits shall continue to retain all the rights and privileges granted therein; provided further that those active volunteer firefighters of participating municipalities shall be transferred and continued as volunteer firefighters and retain all the rights and privileges granted in this article.
Laws 1977, c. 256, § 49-102, eff. July 1, 1978; Laws 1980, c. 352, § 9, eff. Jan. 1, 1981.

§11-49-103. Local firefighter pension and retirement boards.

A. The mayor, the clerk and the treasurer of every incorporated municipality are, in addition to the duties now required of them, hereby created and constituted, together with three members from the fire department of such municipality, a local firefighters pension and retirement board of each such municipality, which board shall be known as the Local Firefighters Pension and Retirement Board. The fire department of each such municipality shall elect, by ballot, three members of such fire department, one of whom shall serve for the term of one (1) year, and one for the term of two (2) years, and one for the term of three (3) years, and thereafter such fire department shall, every year, elect by ballot one of its members to serve for the term of three (3) years upon the local board; provided, the provisions of this article shall not apply to any municipality where no regularly organized fire department is maintained, nor to

any municipality where the fire department has firefighting apparatus of less than One Thousand Dollars ($1,000.00) value.

B. Local firefighter pension and retirement boards of participating employers of the System shall be terminated on December 31, 2016, and all powers, duties and functions shall be assumed by the Executive Director unless a majority of the active firefighters of an affected fire department elect to continue their local firefighter pension and retirement board before the termination date prescribed by this subsection, provided that an election shall be held within twenty (20) days of the date a petition is presented to the fire chief of a fire department signed by at least ten percent (10%) of the active firefighters on the rolls as of the petition date requesting an election to continue the local firefighter pension and retirement board.

Added by Laws 1977, c. 256, § 49-103, eff. July 1, 1980. Amended by Laws 1980, c. 352, § 10, eff. Jan. 1, 1981; Laws 2000, c. 327, § 7, eff. July 1, 2000; Laws 2016, c. 36, § 1, eff. July 1, 2016.

§11-49-104. Organization of board - Officers - Rules and other offices.

The mayor shall be an ex officio member and chairman of the local board, the municipal clerk shall be ex officio secretary, and the municipal treasurer shall be ex officio treasurer of the local board. The mayor shall have a casting vote with the members only when necessary to avoid a tie vote among them. The members shall elect a vice chairman from among them and promulgate such other rules and offices as may be necessary to insure the orderly conduct of business.

Laws 1977, c. 256, § 49-104, eff. July 1, 1978; Laws 1980, c. 352, § 11, eff. Jan. 1, 1981.

§11-49-105. Meetings of local board - Record of proceedings - Quorum.

The local board shall hold meetings upon the call of its chairman at such times as the chairman deems necessary. The local board shall keep a record of its proceedings, which record shall be public record. A majority of all the regular voting members of the local board shall constitute a quorum and have power to transact business.

Laws 1977, c. 256, § 49-105, eff. July 1, 1980; Laws 1980, c. 252, § 12, eff. Jan. 1, 1981. 8

§11-49-105.1. Responsibility of local board to review certain applications.

It shall be the responsibility of the local board to review applications for retirement benefits and disability benefits. Each local board shall recommend approval, disapproval or modification of each application and the secretary shall forward such recommendations

to the State Board within ten (10) days following the local board's decision. Consideration by the local board shall be pursuant to this article and the rules and regulations of the State Board. The State Board shall furnish all required forms.
Amended by Laws 1985, c. 222, § 5, emerg. eff. July 8, 1985.

§11-49-105.2. Joining system - Application for affiliation - Consolidation of systems.

A. An eligible employer may join the System on the first day of any month. Application for affiliation shall be in the form of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the State Board to approve such resolution or action. Upon the filing of a certified copy of such resolution with the State Board, such election shall be irrevocable and the eligible employer shall become a participating municipality on the first day of the month immediately following the filing of such election with the State Board.

B. Any municipality that has a municipal firefighters pension and retirement system prior to January 1, 1981, shall consolidate its system with the state System and become aparticipating municipality on the first entry date as provided in this article.
Amended by Laws 1987, c. 236, § 144, emerg. eff. July 20, 1987.

§11-49-105.3. Municipalities contracting with private entities to provide fire protection.

Any participating municipality that contracts with private organizations, corporations or companies to provide fire protection in this state shall meet the requirements of the Oklahoma Firefighters Pension and Retirement System and the fire fighters of the participating municipality shall be members of the system.
Added by Laws 1988, c. 267, § 3, operative July 1, 1988.

§11-49-106. Retirement benefits - Waiver of benefits - Direct payment to insurer.

A. Any firefighter who reaches the firefighter’s normal retirement date shall be entitled, upon written request, to retire from such service and be paid from the System a monthly pension equal to the member’s accrued retirement benefit; provided, that the pension shall cease during any period of time the member may thereafter serve for compensation in any municipal fire department in the state. If such a member is reemployed by a participating municipality in a position which is not covered by the System,

retirement shall also include receipt by such member of in-service distributions from the System.

B. With respect to distributions under the System made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004, notwithstanding any provision of the System to the contrary. With respect to distributions under the System made for calendar years beginning on or after January 1, 2001 through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed in January 2001, notwithstanding any provision of the System to the contrary. Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member.

Effective September 8, 2009, notwithstanding anything to the contrary of the System, the System, which is a governmental plan (within the meaning of Section 414(d) of the Internal Revenue Code of 1986, as amended) is treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the System if the System complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

C. Any member or beneficiary eligible to receive a monthly benefit from the System may make an election to waive all or a portion of monthly benefits.

D. If the requirements of Section 49-106.5 of this title are satisfied, a member who, by reason of attainment of normal retirement date or age, is separated from service as a public safety officer with the member’s participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly pension payment, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 49-106, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 15, eff. Jan. 1, 1981; Laws 1981, c. 99, § 1, emerg. eff. April 22, 1981; Laws 1989, c. 249, § 41, eff. Jan. 1, 1989; Laws 1999, c. 193, § 2, eff. July 1, 1999; Laws 2002, c. 398, § 3, eff. July 1, 2002; Laws 2003, c. 128, § 2, eff. July 1, 2003; Laws 2004, c. 546, § 2, eff. July 1, 2004; Laws 2005, c. 203, § 1, emerg. eff. May 20, 2005; Laws 2007, c. 345, § 1, eff. July 1, 2007; Laws 2011, c. 279, § 2, emerg. eff. May 19, 2011.

§11-49-106.1. Oklahoma Firefighters Deferred Option Plan.

A. In lieu of terminating employment and accepting a service retirement pension pursuant to Sections 49-101 and 49-106 of this title, any member of the Oklahoma Firefighters Pension and Retirement System serving as an active firefighter in a fire department of a participating municipality who has not less than twenty (20) years of creditable service, or any member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and who has not less than twenty-two (22) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Firefighters Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2 of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Firefighters Deferred Option Plan for active firefighters shall not exceed five (5) years. Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month and end on the last day of a month. At the conclusion of a member's participation in the Oklahoma Firefighters Deferred Option Plan, the member shall terminate employment with all participating municipalities as a firefighter, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System.

D. When a member begins participation in the Oklahoma Firefighters Deferred Option Plan, the contribution of the member shall cease. The employer contributions shall continue to be paid in accordance with subsection B of Section 49-122 of this title. Employer contributions for members who elect the Oklahoma Firefighters Deferred Option Plan shall be credited equally to the Oklahoma Firefighters Pension and Retirement System and to the member's Oklahoma Firefighters Deferred Option Plan account. The

monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the member's Oklahoma Firefighters Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost-of-living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

3. Effective November 1, 2013, the Oklahoma Firefighters Deferred Option Plan account for a member whose first service with a participating municipality of the System occurs on or after November 1, 2013, and who participates for the first time in the Oklahoma Firefighters Deferred Option Plan on or after November 1, 2013, and has completed active participation in the Oklahoma Firefighters Deferred Option Plan, shall earn interest at a rate equal to the actual rate of return of the investment portfolio of the System, less one (1) percentage point to offset administrative costs of the System as determined by the System.

F. A member in the plan shall receive, at the option of the member, a lump-sum payment from the account equal to the payments to the account or an annuity based upon the account of the member or may elect any other method of payment if approved by the Board of Trustees. If a member becomes so physically or mentally disabled while in, or in consequence of, the performance of his or her duty as to prevent the effective performance of his or her duties that the State Board approves an in-line-of-duty disability pension, the payment from the account shall be an in-line-of-duty disability payment. Notwithstanding any other provision contained herein to the contrary, commencement of distributions under the Oklahoma Firefighters Deferred Option Plan shall be no later than the time as set forth in subsection B of Section 49-106 of this title and a member whose first service with a participating municipality of the System occurs on or after November 1, 2013, and who participates for the first time in the Oklahoma Firefighters Deferred Option Plan on or after November 1, 2013, must receive a distribution of the entire remaining balance in the member's Oklahoma Firefighters Deferred Option Plan account no later than April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member.

G. If a member dies while maintaining an account balance in the plan the System shall pay to the designated recipient or recipients

of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the spouse of the member, or if there is no spouse or if the spouse predeceases the member, to the estate of the member a lump-sum payment equal to the account balance of the member. If such member was receiving, or eligible to receive, an in-line-of-duty disability pension at the time of his or her death, payment of the account balance shall be an in-line-of-duty disability payment. If a designated recipient is the surviving spouse of the member, the surviving spouse shall receive his or her portion of the account balance of the member pursuant to subsection F of this section. The surviving spouse, whether or not he or she is a designated recipient of the member, may elect to receive his or her portion of the account balance of the member in the same manner as was applicable to the member.

H. In lieu of participating in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may elect to participate in the Oklahoma Firefighters Deferred Option Plan pursuant to this subsection as follows:

1. For purposes of this subsection and subsection I of this section, the following definitions shall apply:

a. "back drop date" means the member's normal retirement date or the date five (5) years before the member elects to participate in the Oklahoma Firefighters Deferred Option Plan, whichever date is later,

b. "termination date" means the date the member elects to participate in the Oklahoma Firefighters Deferred Option Plan pursuant to this subsection, and the date the member terminates employment with all participating municipalities as an active firefighter,

c. "earlier attained credited service" means the credited service earned by a member as of the back drop date, and

d. "deferred benefit balance" means all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date, all the member's contributions and one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section from the back drop date to the termination date; and

2. At the termination date, the monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, the member shall terminate employment with all participating municipalities as a firefighter, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. The provisions of subsections B, C, E, F and G of this section shall apply to this subsection. A member shall not participate in the Oklahoma Firefighters Deferred Option Plan pursuant to this subsection if the member has elected to participate in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section.

I. Certain surviving spouses and members shall be eligible to participate in the Oklahoma Firefighters Deferred Option Plan pursuant to subsection H of this section and this subsection.

1. For purposes of this subsection, the following definitions shall apply:

a. "back drop election date" means the date the surviving spouse or member elects to commence participation in the Oklahoma Firefighters Deferred Option Plan pursuant to subsection H of this section and this subsection,

b. "interest" means the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary,

c. "monthly adjustment amount" means the difference between the monthly pension prior to the back drop election and the adjusted monthly pension due to the back drop election,

d. "back drop pension adjustment amount" means the sum of all the monthly adjustment amounts adjusted for interest from the pension commencement date to the back drop election date, and

e. "deferred benefit balance adjustment amount" means the interest on the deferred benefit balance from the pension commencement date to the back drop election date.

2. If a member who has more than twenty (20) years of creditable service and is eligible to receive a service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service, retirement pension dies on or after June

4, 2007, and prior to terminating employment, the member's surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with subsection H of this section on the day immediately preceding such member's death. Prior to July 1, 2010, the surviving spouse must make any such election within one (1) year from the date of the member's death. Effective July 1, 2010, the surviving spouse must make any such election within ninety (90) days from the date of the member's death. If on or after June 4, 2007, such election is made, the monthly pension such surviving spouse is entitled to receive shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. The surviving spouse may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan. For purposes of this election, the surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death; provided, the surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for this election.

3. If a member has more than twenty (20) years of creditable service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service and is eligible to receive a service retirement pension, and is eligible for a retirement for disability monthly pension pursuant to Section 49-109 of this title on or after June 4, 2007, such member shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan, in accordance with subsection H of this section, on the day immediately preceding the date of the member's disability retirement, provided such election is made within two (2) years from the date of the member's disability retirement. The disability monthly pension such member is receiving, or entitled to receive, shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. The deferred benefit balance such member is entitled to receive shall be reduced by the back drop pension adjustment amount and increased by the deferred benefit balance adjustment amount. The member may only make a back drop election if the deferred benefit balance after the adjustment described in this paragraph is greater than Zero Dollars ($0.00). The member may only make this election if the member has not

previously elected to participate in the Oklahoma Firefighters Deferred Option Plan.

4. If a member has more than twenty (20) years of creditable service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service and is eligible to receive a service retirement pension, and filed a grievance for wrongful termination occurring on or after June 4, 2007, or is not a member of a collective bargaining organization as a firefighter, is involuntarily terminated and is seeking to have his or her position as a firefighter reinstated through a legal process, but is not reinstated as an active member, such member shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with subsection H of this section on the day immediately preceding the date of the member's termination. Such election must be made within two (2) years from the date of the member's termination as an active member and, if the member's case pertaining to the member's termination is on appeal to a court of competent jurisdiction, within such period set by the State Board in its sole discretion. The monthly pension such member is receiving, or entitled to receive, shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. The deferred benefit balance such member is entitled to receive shall be reduced by the back drop pension adjustment amount and increased by the deferred benefit balance adjustment amount. The member may only make a back drop election if the deferred benefit balance after the adjustment described in this paragraph is greater than Zero Dollars ($0.00). The member may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan.

5. Subparagraphs d and e of paragraph 1 and paragraphs 3 and 4 of this subsection are effective June 4, 2007, provided the Internal Revenue Service issues a favorable determination letter for the System which includes the provisions of such subparagraphs and paragraphs without modification or as modified to conform to any changes required by the Internal Revenue Service as part of its determination letter review process. In the event the Internal Revenue Service does not issue such a determination letter which includes the provisions of such subparagraphs or paragraphs without modification or as modified to conform to any changes required by the Internal Revenue Service as part of its determination letter review process, then subparagraphs d and e of paragraph 1 and paragraphs 3 and 4 of this subsection shall be repealed effective June 4, 2007.

Added by Laws 1989, c. 109, § 1. Amended by Laws 1990, c. 334, § 1, operative July 1, 1990; Laws 1993, c. 353, § 1, emerg. eff. June 10, 1993; Laws 1997, c. 247, § 1, eff. July 1, 1997; Laws 2003, c. 80, § 1, eff. July 1, 2003; Laws 2003, c. 334, § 2, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 3, eff. July 1, 2004; Laws 2007, c. 356, § 2, emerg. eff. June 4, 2007; Laws 2008, c. 177, § 1, eff. July 1, 2008; Laws 2010, c. 438, § 2, emerg. eff. June 9, 2010; Laws 2013, c. 165, § 2, eff. Nov. 1, 2013; Laws 2013, c. 388, § 4, eff. Nov. 1, 2013; Laws 2014, c. 281, § 3, emerg. eff. May 12, 2014.
NOTE: Laws 2003, c. 128, § 3 repealed by Laws 2003, c. 334, § 5, emerg. eff. May 29, 2003.

§11-49-106.2. Limitations on benefits relating to Section 415 of Internal Revenue Code of 1986.

A. For limitation years prior to July 1, 2007, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, shall be computed in accordance with the applicable provisions of the System in effect at that time and, to the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except as provided below. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member from the System provided by employer contributions (including contributions picked up by the employer under Section 414(h) of the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of this section. The limitations of this section shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided below.

B. Except as provided below, effective for limitation years ending after December 31, 2001, any accrued retirement benefit payable to a member as an annual benefit as described below shall not exceed One Hundred Sixty Thousand Dollars ($160,000.00), automatically adjusted under Section 415(d) of the Internal Revenue Code of 1986, as amended, for increases in the cost of living, as prescribed by the Secretary of the Treasury or his or her delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year. The automatic annual adjustment of the dollar limitation in this subsection under Section 415(d) of the Internal Revenue Code of 1986, as amended, shall apply to a member who has had a severance from employment.

1. The member's annual benefit is a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month,

before applying the limitations of this section. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

2. No actuarial adjustment to the benefit shall be made for:

a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form,

b. benefits that are not directly related to retirement benefits such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits, or

c. the inclusion in the form of benefit of an automatic benefit increase feature, provided, the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

3. The determination of the annual benefit shall take into account Social Security supplements described in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended, and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c), of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

4. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with paragraph 5 or paragraph 6 of this subsection.

5. Benefit Forms Not Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall

be determined under this paragraph if the form of the member's benefit is either:

a. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse), or

b. an annuity that decreases during the life of the member merely because of:

(1) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or

(2) the cessation or reduction of Social Security supplements or qualified disability payments as defined in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended.

c. Limitation Years Beginning Before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(1) the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form, and

(2) a five percent (5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.

d. Limitation Year Beginning On January 1, 2008. For the limitation year beginning on January 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the

applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.

e. Limitation Years Beginning On or After July 1, 2008. For limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) for that annuity starting date.

6. Benefit Forms Subject to Section 417 (e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

a. Annuity Starting Date on or after January 1, 2009. If the annuity starting date of the member's form of benefit is in the period beginning on January 1, 2009 through June 30, 2009, or in a plan year beginning after June 30, 2009, the actuarially equivalent straight life annuity is equal to the greatest of divisions (1), (2) and (3) of this subparagraph:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor as set forth in the most recent actuarial valuation referenced in subsection H of Section 49-100.9 of this title prior to September 1, 2011, and effective September 1, 2011, in subsection L of this section for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) i. in a plan year beginning after June 30, 2019, the applicable interest rate under Section 417(e)(3) of the Internal Revenue Code of 1986, as amended (and subsequent guidance), for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

ii. in a plan year beginning before July 1, 2019, the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does

not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance),

divided by one and five one-hundredths (1.05).

b. Annuity Starting Date in the Period Beginning on July 1, 2008 through December 31, 2008. If the annuity starting date of the member's form of benefit is in the period beginning on July 1, 2008 through December 31, 2008, the actuarially equivalent straight life annuity is equal to the greatest of divisions (1), (2) and (3) of this subparagraph:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable

interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

c. Annuity Starting Date in Plan Years Beginning in 2006 or 2007. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2006 or 2007, the actuarially equivalent straight life annuity is equal to the greatest of divisions (1), (2) and (3) of this subparagraph:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution

and for which the applicable interest rate remains constant, and

(b) the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

d. Annuity Starting Date in Plan Years Beginning in 2004 or 2005.

(1) If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a) the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form, and

(b) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable).

(2) If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the System, taking into account the limitations of this section, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(a) the interest rate and mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form,

(b) i. the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

ii. the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and

(c) i. the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the System then adopted and in effect), and

ii. the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable).

C. If a member has less than ten (10) years of participation in the System and all predecessor municipal firefighter pension and retirement systems, the dollar limitation otherwise applicable under subsection B of this section shall be multiplied by a fraction, the numerator of which is the number of the years of participation, or part thereof, in the System of the member, but never less than one (1), and the denominator of which is ten (10).

D. Adjustment of Dollar Limitation for Benefit Commencement Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of Age: Effective for benefits commencing in limitation years ending after December 31, 2001, the dollar limitation under subsection B of this section shall be adjusted if the annuity starting date of the member's benefit is before sixty-two (62) years of age or after sixty-five (65) years of age. If the annuity starting date is before sixty-two (62) years of age, the dollar limitation under subsection B of this section shall be adjusted under paragraph 1 of this subsection, as modified by paragraph 3 of this subsection, but subject to paragraph 4 of this subsection. If the annuity starting date is after sixty-five (65) years of age, the dollar limitation under subsection B of this section shall be adjusted under paragraph 2 of this subsection, as modified by paragraph 3 of this subsection.

1. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Sixty-two (62) Years of Age:

a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this title, or

(2) a five percent (5%) interest rate assumption and the applicable mortality table as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable).

b. Limitation Years Beginning On or After July 1, 2007.

(1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Sixty-two (62) Years of Age and the Age of Benefit Commencement.

(a) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing

straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-two (62) Years of

Age and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the System at sixty-two (62) years of age, both determined without applying the limitations of this section.

(3) Effective for limitation years commencing on or after January 1, 2014, notwithstanding any other provision of paragraph 1 of this subsection, the age-adjusted dollar limit applicable to a member shall not decrease on account of an increase in age or the performance of additional services.

2. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Sixty-five (65) Years of Age:

a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this title, or

(2) a five percent (5%) interest rate assumption and the applicable mortality table as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable).

b. Limitation Years Beginning On or After July 1, 2007.

(1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Sixty-five (65) Years of Age and the Age of Benefit Commencement.

(a) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation

under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-five (65) Years of Age and Age of Benefit Commencement. If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after sixty-five (65) years of age but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age is the annual amount of such annuity that would be payable under the System to a

hypothetical member who is sixty-five (65) years of age and has the same accrued benefit as the member.

3. Notwithstanding the other requirements of this subsection, in adjusting the dollar limitation for the member's annuity starting date under subparagraph a of paragraph 1 of this subsection, division (1) of subparagraph b of paragraph 1 of this subsection, subparagraph a of paragraph 2 of this subsection, or division (1) of subparagraph b of paragraph 2 of this subsection, no adjustment shall be made to reflect the probability of a member's death between the annuity starting date and sixty-two (62) years of age, or between sixty-five (65) years of age and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the System does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the Internal Revenue Code of 1986, as amended, upon the member's death.

4. Notwithstanding any other provision to the contrary, for limitation years beginning on or after January 1, 1997, if payment begins before the member reaches sixty-two (62) years of age, the reductions in the limitations in this subsection shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

E. Minimum Benefit Permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this System shall be deemed not to exceed the maximum permissible benefit if:

1. The retirement benefits payable for a limitation year under any form of benefit with respect to such member under this System and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by a participating municipality do not exceed Ten Thousand Dollars ($10,000.00) multiplied by a fraction:

a. the numerator of which is the member's number of credited years (or part thereof, but not less than one (1) year) of service (not to exceed ten (10) years) with the participating municipality, and

b. the denominator of which is ten (10); and

2. The participating municipality (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h) of the Internal Revenue Code of 1986, as amended, and accounts for postretirement medical benefits

established under Section 419A(d)(1) of the Internal Revenue Code of 1986, as amended, are not considered a separate defined contribution plan).

F. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

G. For limitation years beginning on or after January 1, 1995, subsection C of this section, paragraph 1 of subsection D of this section, and the proration provided under subparagraphs a and b of paragraph 1 of subsection E of this section, shall not apply to a benefit paid under the System as a result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as a result of the death of the member.

H. If a member purchases service credit under the System, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

1. Treating the accrued benefit derived from such contributions as an annual benefit under subsection B of this section; or

2. Treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

I. If a member repays to the System any amounts refunded from the System because of the member's prior termination or any other amount which qualifies as a repayment under Section 415(k)(3) of the Internal Revenue Code of 1986, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

J. For distributions made in limitation years beginning on or after January 1, 2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, shall not apply.

K. The State Board is hereby authorized to revoke the special election previously made on June 21, 1991, under Section 415(b)(10) of the Internal Revenue Code of 1986, as amended.

L. Effective September 1, 2011, the interest rate and mortality assumptions for the System used to determine the actuarial equivalence of a member's form of benefit shall be set by the State

Board in a manner that precludes employer discretion, shall be based upon recommendations from independent professional advisors and shall be published annually in the actuarial valuation.

M. All benefits payable from the Oklahoma Firefighters Pension and Retirement System including payments from the deferred option plan under Section 49-106.1 of this title shall be paid from the general assets of the Oklahoma Firefighters Pension and Retirement Fund pursuant to subsection B of Section 49-100.11 of this title. Added by Laws 1991, c. 323, § 2, emerg. eff. June 12, 1991. Amended by Laws 1999, c. 193, § 3, eff. July 1, 1999; Laws 2000, c. 327, § 8, eff. July 1, 2000; Laws 2003, c. 128, § 4, eff. July 1, 2003; Laws 2008, c. 177, § 2, eff. July 1, 2008; Laws 2010, c. 438, § 3, emerg. eff. June 9, 2010; Laws 2011, c. 279, § 3, emerg. eff. May 19, 2011; Laws 2012, c. 364, § 5; Laws 2013, c. 388, § 5, emerg. eff. May 29, 2013; Laws 2014, c. 281, § 4, emerg. eff. May 12, 2014; Laws 2019, c. 346, § 1, eff. July 1, 2019.

§11-49-106.3. Payment of distribution to retirement plan.

A. For distributions made on or after January 1, 2002, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income. A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions or any other distribution which is not includable in gross income. However, such portion may be transferred only:

(a) from January 1, 2002, through December 31, 2006:

(1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) in a direct trustee-to-trustee transfer, to a qualified trust which is a part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and

(b) on or after January 1, 2007:

(1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) in a direct trustee-to-trustee transfer, to a qualified trust or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

Effective for distributions after December 31, 2007, such after-tax portion may also be directly transferred to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended, (Roth IRA), subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective for distributions after December 31, 2007, an

Eligible Retirement Plan includes a Roth IRA, subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended. Effective for distributions after December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA in accordance with Section 408(p)(1)(B) of the Internal Revenue Code of 1986, as amended, for purposes of a rollover contribution to such SIMPLE IRA, but only if such rollover contribution is made after December 18, 2015, and only if such rollover contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means a member whether or not the member is an active firefighter. In addition, the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse. A Distributee also includes the member's nonspouse designated beneficiary, and certain trusts described in Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, who may elect any portion of a payment to be made in a Direct Rollover only to an individual retirement account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA) (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Code Section 72(t)(6) and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth IRA, that is established on behalf of such nonspouse designated beneficiary for the purpose of receiving the distribution and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The required minimum distribution rules of Section 401(a)(9)(B)(other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA;

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee or, in the case of an automatic rollover, the individual retirement plan that the State Board designates; and

5. "Mandatory Distribution" means a distribution that is an Eligible Rollover Distribution subject to Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and is made without the

member's consent to a member before the member attains the later of age sixty-two (62) or the member's normal retirement date. A distribution to a surviving spouse, alternate payee, or a distribution made upon a member's death is not a Mandatory Distribution for purposes of the automatic rollover requirements of Section 401(a)(31)(B) of the Internal Revenue Code of 1986, as amended.

C. At least thirty (30) days before and, effective for years beginning after December 31, 2006, not more than one hundred eighty (180) days before the date of distribution, the Distributee (other than a nonspouse designated beneficiary prior to July 1, 2010) must be provided with a notice of rights which satisfies Section 402(f) of the Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The State Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

D. For distributions made after December 31, 2006, but prior to July 1, 2010, a distribution with respect to a nonspouse designated beneficiary shall be made in accordance with Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395. Effective for plan years beginning after December 31, 2009, a distribution with respect to a nonspouse designated beneficiary shall be subject to Sections 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986, as amended.

E. Effective for distributions after December 31, 2014, the guidance under IRS Notice 2014-54 shall be followed for purposes of determining the portion of a disbursement of benefits from the System to a Distributee that is not includable in gross income under Section 72 of the Internal Revenue Code of 1986, as amended.

F. In the event of a Mandatory Distribution greater than One Thousand Dollars ($1,000.00) made on or after June 28, 2018, if the member does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the member in a Direct Rollover or to receive the distribution directly, then the State Board shall pay the distribution in a Direct Rollover to an individual retirement plan designated by the State Board. For purposes of determining whether a Mandatory Distribution is greater than One Thousand Dollars ($1,000.00), the portion of the member's distribution attributable to any rollover contribution is included.

Added by Laws 1999, c. 193, § 4, eff. July 1, 1999. Amended by Laws 2000, c. 327, § 9, eff. July 1, 2000; Laws 2003, c. 128, § 5, eff. July 1, 2003; Laws 2007, c. 345, § 2, eff. July 1, 2007; Laws 2008,

c. 177, § 3, eff. July 1, 2008; Laws 2010, c. 438, § 4, emerg. eff. June 9, 2010; Laws 2011, c. 279, § 4, emerg. eff. May 19, 2011; Laws 2012, c. 364, § 6; Laws 2015, c. 367, § 2, emerg. eff. June 4, 2015; Laws 2017, c. 95, § 1, emerg. eff. April 25, 2017.

§11-49-106.4. Trustee-to-trustee transfer - Rules.

A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member and who is not the surviving spouse of the member, may elect, in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended, to have a direct trustee-to-trustee transfer of any portion of such beneficiary's distribution from the Oklahoma Firefighters Pension and Retirement System made only to an individual retirement account or individual retirement annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA)(including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), that is established on behalf of such designated individual for the purpose of receiving the distribution. If such transfer is made then:

1. For distributions made after December 31, 2006, but prior to July 1, 2010, the transfer is treated as an eligible rollover distribution for purposes of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. For plan years beginning after December 31, 2009, the transfer is treated as an eligible rollover distribution;

2. The transferee IRA is treated as an inherited individual retirement account or an inherited individual retirement annuity (within the meaning of Section 408(d)(3)(C) of the Internal Revenue Code of 1986, as amended) and must be titled in the name of the deceased member, for the benefit of the beneficiary; and

3. The required minimum distribution rules of Section 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA.

B. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

C. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this section.

Added by Laws 2007, c. 345, § 3, eff. July 1, 2007. Amended by Laws 2010, c. 438, § 5, emerg. eff. June 9, 2010; Laws 2011, c. 279, § 5, emerg. eff. May 19, 2011; Laws 2012, c. 364, § 7; Laws 2017, c. 95, § 2, emerg. eff. April 25, 2017.

§11-49-106.5. Written election for direct payments - Definitions - Rules.

A. A member who is an eligible retired public safety officer and who wishes to have direct payments made toward the member's qualified health insurance premiums from the member's monthly disability benefit or monthly pension payment must make a written election in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended, on the form provided by the Oklahoma Firefighters Pension and Retirement System, as follows:

1. The election must be made after the member separates from service as a public safety officer with the member's participating municipality;

2. The election shall only apply to distributions from the System after December 31, 2006, and to amounts not yet distributed to the eligible retired public safety officer;

3. Direct payments for an eligible retired public safety officer's qualified health insurance premiums can only be made from the member's monthly disability benefit or monthly pension payment from the System and cannot be made from the Deferred Option Plan; and

4. The aggregate amount of the exclusion from an eligible retired public safety officer's gross income is Three Thousand Dollars ($3,000.00) per calendar year.

B. As used in this section:

1. "Public safety officer" means a member serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, chaplain, or as a member of a rescue squad or ambulance crew;

2. "Eligible retired public safety officer" means a member who, by reason of disability or attainment of normal retirement date or age, is separated from service as a public safety officer with the member's participating municipality; and

3. "Qualified health insurance premiums" are premiums for coverage for the eligible retired public safety officer, the eligible retired public safety officer's spouse, and dependents, as defined in Section 152 of the Internal Revenue Code of 1986, as amended, by an accident or health plan or a qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1986, as amended. The health plan does not have to be sponsored by the eligible retired public safety officer's former participating municipality.

C. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this section.
Added by Laws 2007, c. 345, § 4, eff. July 1, 2007. Amended by Laws 2013, c. 388, § 6, emerg. eff. May 29, 2013.

§11-49-108. Volunteer fire fighters with less than 10 years' service - Pension rights.

A. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, and serves less than ten (10) years as a paid fire fighter, shall be entitled to receive one-twentieth (1/20) of a volunteer pension earned over twenty (20) years for each full year served as a volunteer fire fighter and one-twentieth of one-half (1/20 of 1/2) of the average salary received for each full year the fire fighter served as a paid fire fighter. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, and serves less than eleven (11) years as a paid fire fighter, shall be entitled to receive one-twenty-second (1/22) of a volunteer pension earned over twenty-two (22) years for each full year served as a volunteer fire fighter and one-twenty-second of fifty-five percent (1/22 of 55%) of the average salary received for each full year the fire fighter served as a paid fire fighter.

B. Any volunteer fire fighter who is appointed as a paid fire fighter after May 15, 1992, whose first service with a participating employer of the System occurs prior to November 1, 2013, and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-year paid service pension with remaining volunteer time computed at one-twentieth (1/20) of a volunteer pension earned over twenty (20) years for each additional volunteer year. Any volunteer fire fighter who is appointed as a paid fire fighter before May 15, 1992, and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit all of the fire fighter's volunteer time to complete a twenty-year paid service pension. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, and serves eleven (11) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-two-year paid service pension with remaining volunteer time computed at one-twenty-second (1/22) of a volunteer pension earned over twenty-two (22) years for each additional volunteer year.

C. For purposes of determining benefits pursuant to this section, total credited service for paid and volunteer service shall

not exceed thirty (30) years; provided, the most recent years of service shall be used in determining total credited service for paid and volunteer service.

D. Nothing contained in this section shall be construed to create an eligibility for pension which is not otherwise provided by law.

Added by Laws 1977, c. 256, § 49-108, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 16, eff. Jan. 1, 1981; Laws 1992, c. 203, § 1, emerg. eff. May 15, 1992; Laws 2000, c. 327, § 10, eff. July 1, 2000; Laws 2013, c. 388, § 7, eff. Nov. 1, 2013.

§11-49-109. Retirement for disability - Restoration to service - Disability not in line of duty.

A. Whenever any firefighter serving in any capacity in a regularly constituted fire department of a municipality shall become so physically or mentally disabled while in, or in consequence of, the performance of the firefighter's duty as to prevent the effective performance of the firefighter's duties, the State Board may, upon the firefighter's written request, or without such request if the State Board deems it for the good of the department, retire the firefighter from active service, and if so retired, shall direct that the firefighter be paid from the System a monthly pension equal to the greater of:

1. Fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last thirty (30) months of the firefighter's service; or

2. Two and one-half percent (2 1/2%) of the firefighter's final average salary multiplied by the member's years of credited service, not to exceed thirty (30) years, provided such firefighter has completed twenty (20) or more years of credited service.

B. If the disability ceases within two (2) years from the date of the firefighter's disability retirement and before the firefighter's normal retirement date, the formerly disabled person shall be restored to active service at the salary attached to the rank the firefighter held at the time of the firefighter's disability retirement provided the firefighter is capable of performing the duties of a firefighter. Whenever such disability shall cease, such disability pension provided pursuant to paragraph 1 of subsection A of this section shall cease. If a firefighter participates in the Oklahoma Firefighters Deferred Option Plan pursuant to Section 49-106.1 of this title, the firefighter's disability pension provided pursuant to this subsection shall be reduced to account for the firefighter's participation in the Oklahoma Firefighters Deferred Option Plan.

C. Whenever any firefighter, who has served in any capacity in a regularly constituted fire department of a municipality of the state, and who has served less than the firefighter's normal retirement

date, shall become so physically or mentally disabled from causes not arising in the line of duty as to prevent the effective performance of the firefighter's duties, the firefighter shall be entitled to a pension during the continuance of said disability based upon the firefighter's service period which shall be fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last sixty (60) months of the firefighter's service.

D. No firefighter shall accrue additional service time while receiving a disability pension; provided further, that nothing herein contained shall affect the eligibility of any firefighter to apply for and receive a retirement pension after the firefighter's normal retirement date; provided further, that no firefighter shall receive retirement benefits from the System during the time the firefighter is receiving disability benefits from the System. Any member or beneficiary eligible to receive a monthly benefit pursuant to this section may make an election to waive all or a portion of monthly benefits.

E. If the requirements of Section 4 of this act are satisfied, a member who, by reason of disability, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended. Added by Laws 1977, c. 256, § 49-109, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 17, eff. Jan. 1, 1981; Laws 1985, c. 222, § 6, emerg. eff. July 8, 1985; Laws 2004, c. 546, § 4, eff. July 1, 2004; Laws 2006, 2nd Ex.Sess., c. 46, § 13, eff. July 1, 2006; Laws 2007, c. 345, § 5, eff. July 1, 2007.

§11-49-110. Certificates of disability - Presumptions – Medical evidence and records.

A. No firefighter shall be retired, as provided in Section 49-109 of this title, or receive any pension from the System, unless there shall be filed with the State Board certificates of the firefighter's disability. Any member of the fire department of any municipality who is disabled as a result of heart disease, injury to the respiratory system, infectious disease, or the existence of any cancer which heart disease, injury to the respiratory system, infectious disease, or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred the heart disease, injury to the respiratory system, infectious disease, or cancer while performing the firefighter's duties as a member of such department unless the contrary is shown by competent evidence. As used in this section, "infectious disease" means hepatitis, human immunodeficiency virus, meningitis and tuberculosis. Effective November 10, 1999, the

provisions of this subsection relating to infectious disease shall apply.

B. Medical treatment based on the presumptions prescribed by subsection A of this section shall be provided by the municipality as a job-related illness until a court of competent jurisdiction determines that the presumption does not apply. If it is subsequently determined that the illness is not job-related, the workers' compensation provider shall be reimbursed for expenditures made for health care services by the medical plan or benefit provided by the municipality for the employee.

C. If any such member fails to submit evidence of a physical examination prior to entry into the fire department, there shall be no presumption the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the firefighter's official duties and it shall be the duty of the State Board to determine if the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the member's official duties.

D. Whenever a participating municipality on behalf of a member or a member applies for a disability benefit, the application shall be accompanied by proof of injury unless otherwise provided and medical evidence supporting the existence of a disability, certified by the member's or municipality's physician, that the member is unable to perform the duties of a firefighter. Should the application be made by a municipality, the member may submit medical evidence or reports from the member's physician to the local board. If both the municipality's physician and the member's physician certify to the disability, the local board shall act upon the application.

E. In regards to applications made by either an individual member or a municipality, should the physicians disagree, or if there is only one physician statement, the local board shall be required to have all the medical records concerning the applicant's disability reviewed by a physician selected by the local board and, if required by the reviewing physician, the local board shall have the member examined. The local board shall act upon all the physician's statements. Local board physician examinations and certifications shall be paid by the State Board and shall be limited to only those conditions upon which the member or the municipality on behalf of the member is requesting a disability.

F. If the State Board deems appropriate, an independent physician may be selected by the State Board to review medical records and examine the member. The physicians selected by the State Board shall submit a report and recommendation to the State Board. The local board may request assistance from the State Board in selecting a physician. Final determination on all disability applications shall rest solely with the State Board.

Added by Laws 1977, c. 256, § 49-110, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 18, eff. Jan. 1, 1981; Laws 1982, c. 320, § 2, operative July 1, 1982; Laws 1987, c. 236, § 145, emerg. eff. July 20, 1987; Laws 1993, c. 353, § 2, emerg. eff. June 10, 1993; Laws 1998, c. 296, § 1, eff. July 1, 1998; Laws 2001, c. 359, § 1, eff. July 1, 2001; Laws 2002, c. 398, § 4, eff. July 1, 2002.

§11-49-111. Temporary sickness or disability.

A. Whenever any member of the fire department of any municipality, on account of sickness or temporary disability, other than a burn injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the workers' compensation provisions of Title 85 of the Oklahoma Statutes related to temporary disability benefits, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than six (6) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of twelve (12) months, after which period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply. The salary received by the member under this subsection while the member is sick or temporarily disabled for a period specified in this subsection shall be, or deemed to be, part of the member's actual paid gross salary under the Oklahoma Firefighters Pension and Retirement System. Contributions shall be made on actual paid gross salary paid pursuant to this section.

B. Whenever any member of the fire department of any municipality, on account of a burn injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the workers' compensation provisions of Title 85 of the Oklahoma Statutes related to temporary disability benefits, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than twelve (12) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of eighteen (18) months, after which said period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply. The salary received by the member under this subsection while the member is sick or temporarily disabled for a period specified in this subsection shall be, or deemed to be, part of the member's actual paid gross salary under the Oklahoma Firefighters Pension and Retirement System. Contributions shall be made on actual paid gross salary paid pursuant to this section.

C. Should a member receiving a salary under this section be eligible to receive, and should the salary of the member under this section exceed any temporary disability benefit paid to the member under the workers' compensation provisions of Title 85 of the Oklahoma Statutes, the member shall transfer such temporary disability benefits under the workers' compensation provisions of Title 85 of the Oklahoma Statutes to the municipality while the member is sick or temporarily disabled.
Added by Laws 1977, c. 256, § 49-111, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 19, eff. Jan. 1, 1981; Laws 1993, c. 80, § 1, eff. July 1, 1993; Laws 1997, c. 182, § 1, eff. July 1, 1997; Laws 2010, c. 438, § 6, emerg. eff. June 9, 2010; Laws 2012, c. 364, § 8.

§11-49-112. Pensions for loss of life.

A. Whenever any member of the fire department shall lose his or her life by reason of any injury or sickness sustained by him or her while in, or in consequence of, the performance of his or her duty or while on active duty in the National Guard and Reserves called to active duty, leaving a surviving spouse, or child or children under the age of eighteen (18) years, then, upon satisfactory proof of such facts made to it, the State Board shall order and direct that a monthly pension be paid. Such amount shall be determined in accordance with the provisions of subsection A of Section 49-109 of this title. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child such child shall receive an amount equal to one hundred percent (100%) of the pension, but if there then be more than one living child, one hundred percent (100%) of the pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full-time and regularly attending a public or private school or any institution of higher education. In the event the State Board finds that such a child who is not married at the time of death of the member or the member’s surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension shall continue so long as such disability remains. Upon the death of the firefighter and surviving spouse, if any, the physically or mentally disabled child shall be entitled to have paid to the child’s trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of the physically or mentally disabled child, or if there is no trust, to the child’s legally appointed guardian, an amount not to exceed one hundred percent (100%) of the pension. The money paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment provided shall be calculated after

payments have been made to all eligible children as provided in this subsection. If the member does not leave a beneficiary or disabled child as described in this subsection, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

B. Whenever any member of the fire department who has not terminated employment shall lose his or her life for any reason not described in subsection A of this section, after completing less than twenty (20) years of credited service, leaving a surviving spouse, or child or children under the age of eighteen (18) years, then upon satisfactory proof of such facts made to it, the State Board shall order and direct that a monthly pension be paid. Such amount shall be fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last sixty (60) months of the firefighter's service. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child such child shall receive an amount equal to one hundred percent (100%) of the pension, but if there then be more than one living child, one hundred percent (100%) of the pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or the age of twenty-two (22) years if the child is enrolled full-time and regularly attending a public or private school or any institution of higher education. In the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension shall continue so long as the disability remains. Upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of the pension. The money paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment provided shall be calculated after payments have been made to all eligible children as provided in this subsection. If the member does not leave a beneficiary or disabled child as described in this subsection, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

C. For purposes of this section, a child shall not be considered disabled if the child is able to pursue a remunerative occupation, with the remuneration being reasonably substantial rather than merely nominal.

Laws 1977, c. 256, § 49-112, eff. July 1, 1978; Laws 1980, c. 352, § 20, eff. Jan. 1, 1981. Amended by Laws 1990, c. 143, § 2, emerg. eff. May 1, 1990; Laws 1991, c. 125, § 1, emerg. eff. April 29, 1991; Laws 2007, c. 356, § 3, emerg. eff. June 4, 2007.

§11-49-113. Death of firefighter for any cause - Payment of benefits to beneficiaries.

A. 1. In the event of the death of a firefighter who at the time of the firefighter's death was drawing a pension, other than a disability pension, or who at the time of the firefighter's death (whether death occurred while on duty, but not in or in consequence of the performance of duty, or while on vacation or off duty) was eligible, upon written request, to retire and draw a pension, other than a disability pension, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of said pension.

2. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability that occurred while in, or in consequence of, the performance of the firefighter's duty, and which prevented the effective performance of the firefighter's duties, and which caused the State Board to retire the firefighter from active service, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection A of Section 49-109 of this title.

3. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability from causes not arising in the line of duty and which prevented the effective performance of the firefighter's duties, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection C of Section 49-109 of this title.

4. Effective March 1, 1997, if a firefighter to whom a retirement or disability benefit has been awarded, or who is eligible therefore, dies prior to the date as of which the total amount of retirement or disability benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than Zero Dollars ($0.00), shall be paid to the member's estate.

5. Any person eligible to receive a payment pursuant to this section may make an election to waive all or a portion of monthly payments.

B. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child same shall receive an amount equal to one hundred percent (100%) of said pension, but if there then be more than one living child, one hundred percent (100%) of said pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Provided, that in the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension thereof shall continue so long as such disability remains; provided, that upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. A child shall not be considered disabled if the child is able to pursue a remunerative occupation, with the remuneration being reasonably substantial rather than merely nominal. The payment so provided shall be calculated after payments have been made to all eligible children as provided in this section; provided further, that beneficiaries now receiving pensions under the provisions of Sections 49-112 or 49-113 of this title shall, upon application to the State Board, thereafter be entitled to a pension equal to the amount which they would have received if this act were in effect at the time the right to said pension accrued.

C. In the event a surviving spouse of a member remarried prior to June 7, 1993, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Firefighters Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of

pension benefits paid or due prior to the Oklahoma Firefighters Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

D. No surviving spouse shall receive benefits from this section, Section 50-117 of this title, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

F. Upon the death of an unmarried firefighter, or a firefighter whose spouse does not meet the qualifications of beneficiary who has one or more children, said child or children shall receive pension benefits as provided in subsection B of this section as if the surviving spouse had died; provided, that upon the death of the firefighter, said child or children shall be entitled to have the System pay to the child's or children's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said child, or if there is no trust, to the child's or children's legally appointed guardian, the pension benefits as provided in subsection B of this section in an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the child and it shall be reported annually to the State Board.

Added by Laws 1977, c. 256, § 49-113, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 21, eff. Jan. 1, 1981; Laws 1985, c. 222, § 7, emerg. eff. July 8, 1985; Laws 1991, c. 125, § 2, emerg. eff. April 29, 1991; Laws 1993, c. 126, § 3, emerg. eff. May 3, 1993; Laws 1993, c. 322, § 1, emerg. eff. June 7, 1993; Laws 1994, c. 84, § 2, eff. July 1, 1994; Laws 1994, c. 351, § 1, eff. July 1, 1994; Laws 1997, c. 363, § 1, emerg. eff. June 11, 1997; Laws 1998, c. 419, § 1, eff. July 1, 1998; Laws 2001, c. 49, § 1, emerg. eff. April 10, 2001; Laws 2002, c. 330, § 1, eff. July 1, 2002; Laws 2003, c. 334, § 3, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 5, eff. July 1, 2004; Laws 2005, c. 203, § 2, emerg. eff. May 20, 2005; Laws 2006, 2nd Ex.Sess., c. 46, § 14, eff. July 1, 2006; Laws 2007, c. 356, § 4, emerg. eff. June 4, 2007.

§11-49-113.2. Death benefit.

A. Upon the death of an active or retired member, the System shall pay to the surviving spouse of the member if the surviving spouse has been married to the firefighter for thirty (30) continuous months preceding the member's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for survivor benefits, or if there is no surviving spouse or no surviving spouse meeting the requirements of this section, the System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the estate of the member, the sum of Four Thousand Dollars ($4,000.00) for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars ($5,000.00).

B. Upon the death of a member who dies leaving no living designated recipient or having designated the member's estate as recipient, the System may pay any applicable death benefit which may be subject to probate, in an amount of Five Thousand Dollars ($5,000.00), to the heir or heirs of the member without the intervention of a probate court or probate procedures.

C. Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's last will and testament if available;
2. An affidavit or affidavits of heirship which must contain:
    a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased member, current addresses and current telephone numbers,
    b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
    c. a statement that the value of the deceased member's entire probate estate, less liens and encumbrances, does not exceed the dollar limit pursuant to Section 393 of Title 58 of the Oklahoma Statutes, including the payment of benefits from the System, and
    d. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System or the amount the heir agrees to be paid to another person, and that the heir has been notified of, is aware of and consents to the

identified claims of all the other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs;

4. A corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member; and

5. Proof that funeral and burial expenses of the deceased member have been paid or provided for.

D. The System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any questions as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirements provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall not be waived.

E. After paying any death benefits to any claiming heirs as provided pursuant to this section, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had paid a personal representative holding valid letters testamentary issued by a court of competent jurisdiction. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

F. The provisions of this section shall not be subject to qualified domestic orders as provided in subsection B of Section 49-126 of this title.

G. 1. For purposes of this section, if a person makes a qualified disclaimer with respect to the death benefit provided for in subsection A of this section, this section shall apply with respect to such death benefit as if the death benefit had never been transferred to such person.

2. For purposes of this subsection, the term "qualified disclaimer" means an irrevocable and unqualified refusal by a person, including but not limited to the surviving spouse of the deceased member, to accept an interest in the death benefit provided for in subsection A of this section, but only if:

a. such refusal is in writing,

b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,

c. such person has not accepted the death benefit provided for in subsection A of this section, and

d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person making the disclaimer as further provided for in this section.

Added by Laws 1987, c. 236, § 146, emerg. eff. July 20, 1987. Amended by Laws 1994, c. 300, § 2, eff. July 1, 1994; Laws 1994, c. 351, § 2, eff. July 1, 1994; Laws 1996, c. 291, § 1, eff. July 1, 1996; Laws 1999, c. 167, § 1, eff. July 1, 1999; Laws 2001, c. 49, § 2, emerg. eff. April 10, 2001; Laws 2002, c. 352, § 1, eff. July 1, 2002; Laws 2014, c. 281, § 5, emerg. eff. May 12, 2014; Laws 2019, c. 346, § 2, eff. July 1, 2019.

§11-49-114. Members entitled to benefits for disability or loss of life.

Any member serving in any capacity in a regularly constituted fire department of a municipality of this state who shall become physically or mentally disabled as provided in Section 49-109 of this title, or shall lose his life as provided in Section 49-112 of this title, where said disability or loss of life was occasioned in fighting or preventing fires or in carrying out any order or direction of the chief or acting chief of said department shall be entitled to all of the benefits authorized by said sections.

Laws 1977, c. 256, § 49-114, eff. July 1, 1978; Laws 1980, c. 352, § 23, eff. Jan. 1, 1981; Laws 1992, c. 390, § 2, emerg. eff. June 9, 1992.

§11-49-116. Physical performance/agility test and examination – Retired disabled persons.

A. All candidates being considered for a position of a paid firefighter shall pass the required pre-employment offer physical performance/agility test based on standards established by the State Board; provided that the time between the administration of the physical performance/agility test approval for membership in the System by the Executive Director and the candidate’s actual hire date by the participating municipality is less than twelve (12) months, provided further that a volunteer firefighter who passes an agility test at the time he or she is enrolled as a firefighter in a combination paid and volunteer fire department shall not be required to take a second agility test at the time of appointment as a paid firefighter in the same fire department. After review of a candidate’s physical performance/agility test presented to the System by a participating municipality or its fire department, the Executive

Director may require that a second physical performance/agility test be administered to said candidate by and under the supervision of the Executive Director. Successful completion of the second physical performance/agility test shall be required before said candidate's application for membership in the System can be approved.

B. The State Board shall require that any candidate applying for entrance as a member of the System, who has been offered a position of a paid firefighter and before entering the employment of a participating municipality as a paid firefighter, must successfully complete a physical examination, as promulgated by the administrative rules established by the State Board, in order to participate and qualify to receive any benefits from the System; provided that when the System receives all the information necessary for entrance into the System, including written notice from the System's physician that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later; provided that the time between the administration of the physical examination approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. All candidates shall be of good moral character, free from deformities, mental or physical conditions, disease and alcohol or drug addiction, which would prohibit a candidate from performing duties as a firefighter. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have final authority in determining eligibility for membership pursuant to the provisions of this article. This subsection shall not apply to any person who terminates employment with a participating municipality as a paid firefighter and is reemployed by the participating municipality or employed by another participating municipality within six (6) months of such termination, unless such person was terminated for medical reasons.

C. Any person retired for disability under this article may be summoned before the State Board herein provided for, any time hereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of the State Board with reference thereto; and all members of the fire department, who may be retired under the provisions of this article, shall report to some physician designated by the State Board when so retired, as required by the State Board.

Added by Laws 1977, c. 256, § 49-116, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 25, eff. Jan. 1, 1981; Laws 1982, c. 320, § 3, operative July 1, 1982; Laws 1992, c. 390, § 3, emerg. eff. June 9,

1992; Laws 2000, c. 327, § 11, eff. July 1, 2000; Laws 2002, c. 398, § 5, eff. July 1, 2002; Laws 2003, c. 128, § 6, eff. July 1, 2003.

§11-49-117. Forfeiture of pensions and allowances.

When any person who shall have received any benefits from the System shall fail to report himself for examination for duty as required herein, unless excused by the State Board, or shall disobey the requirements of said State Board under this article, in respect to said examination or duty, then the State Board shall order that such pension or allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this article.

Laws 1977, c. 256, § 49-117, eff. July 1, 1978; Laws 1978, c. 280, § 1, eff. July 1, 1978; Laws 1980, c. 352, § 26, eff. Jan. 1, 1980.

§11-49-117.1. Termination of service before normal retirement date - Refunds - Vested benefits - Retirement annuity - Rejoining System.

A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state.

B. If a member, whose first employment with a participating employer of the System occurs prior to November 1, 2013, has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

C. If a member whose first employment with a participating employer of the System occurs on or after November 1, 2013, has completed eleven (11) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

D. If the member who has completed ten (10) or more years of credited service as prescribed by subsection B of this section elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of the annualized final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

E. If the member who has completed eleven (11) or more years of credited service as prescribed by subsection C of this section elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty-two (22) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of the annualized final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

F. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

G. If a member terminates employment and withdraws the member's accumulated contributions and then subsequently rejoins the System, he may pay to the System the sum of the accumulated contributions he has withdrawn plus five percent (5%) annual interest from the date of withdrawal and shall receive the same benefits as if he had never withdrawn his contributions; however, effective January 1, 1991, the rate of interest provided herein shall be ten percent (10%) per annum.

H. Lump-sum payments for repayment of any amounts received because of a member's prior termination with interest may be repaid by a trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

I. A firefighter shall not be permitted to withdraw from the System while employed as a firefighter in a participating municipality.

Added by Laws 1980, c. 352, § 27, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 8, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 147, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 1, eff. July 1, 1990; Laws 1993, c. 126, § 4, emerg. eff. May 3, 1993; Laws 2002, c. 398, § 6, eff. July 1, 2002; Laws 2003, c. 128, § 7, eff. July 1, 2003; Laws 2013, c. 165, § 3, eff. Nov. 1, 2013; Laws 2013, c. 388, § 8, eff. Nov. 1, 2013; Laws 2014, c. 281, § 6, emerg. eff. May 12, 2014; Laws 2016, c. 37, § 1, eff. July 1, 2016.

§11-49-117.2. Transfer of credited service from or to other retirement system.

A. A paid member of the Oklahoma Firefighters Pension and Retirement System may receive up to five (5) years of credited

service accumulated by the member while a member of the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit prior to January 1, 1991, the member shall pay a five percent (5%) contribution and interest of not to exceed five percent (5%), as may be required by the State Board for each year of service transferred pursuant to this section. Effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the State Board pursuant to Section 3 of this act. The transferred credited service of the member from another state retirement system shall not alter the member's normal retirement date or vesting requirements. The transferred credited service will be added after the member reaches normal retirement date.

B. The Oklahoma Firefighters Pension and Retirement System shall transfer credited service to another state retirement system upon request of former paid members. Upon transfer, the former member shall have forfeited all rights in the Oklahoma Firefighters Pension and Retirement System. Employee and city contributions of the former municipal retirement systems prior to January 1, 1981, are not transferable.

Amended by Laws 1985, c. 222, § 8, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 147, emerg. eff. July 20, 1987. Amended by Laws 1990, c. 340, § 2, eff. July 1, 1990.

§11-49-117.3. Transferred credited service - Computation of purchase price.

A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the State Board shall permit the members to amortize the purchase price over a period

not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Members who pay the purchase price by the due date may make payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth accounts and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

D. Members amortizing the purchase price and making payments by payroll deduction, shall have the option of making a cash lump-sum payment for the balance of the actuarial purchase price with interest due through the date of payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section

408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth accounts and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

Added by Laws 1990, c. 340, § 3, eff. July 1, 1990. Amended by Laws 1993, c. 322, § 2, emerg. eff. June 7, 1993; Laws 2002, c. 398, § 7, eff. July 1, 2002; Laws 2003, c. 128, § 8, eff. July 1, 2003; Laws 2004, c. 546, § 6, eff. July 1, 2004; Laws 2005, c. 203, § 3, emerg. eff. May 20, 2005; Laws 2016, c. 37, § 2, eff. July 1, 2016.

§11-49-118. Additional powers of State Board.

The State Board shall, in addition to other powers herein granted, have power, to wit:

1. To compel witnesses to attend and testify before it upon all matters connected with the operations of this article, and in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president or any member of said board may administer oaths to such witnesses;

2. To provide for the payment from the Fund of all its necessary expenses and printing;

3. To make all rules and regulations needful for its guidance in conformity with the provisions of this article; and

4. To bring any action for declaratory relief in the district courts in the state to enforce any provisions of this article or any other applicable state statute.

Added by Laws 1977, c. 256, § 49-118, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 28, eff. Jan. 1, 1981; Laws 2006, 2nd Ex. Sess., c. 46, § 15, eff. July 1, 2006.

§11-49-119. Tax on insurance premiums for benefit of fund - Appropriations.

There is hereby appropriated and set aside for the use and benefit of the Fund, a percentage on all taxes collected on premiums collected by all insurance companies and other entities which are subject to the premium tax levied pursuant to Section 624 of Title 36 of the Oklahoma Statutes, after all returned premiums and other credits are deducted as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes. In addition, the State of Oklahoma shall make such appropriation as is necessary to assure the retirement benefits provided by this article.

Amended by Laws 1988, c. 83, § 1, emerg. eff. March 25, 1988.

§11-49-120. Account of tax paid by insurance companies - Warrants.

The Insurance Commissioner shall keep a separate account of the amount of tax paid by all insurance companies and other entities subject to the premium tax levied pursuant to Section 624 of Title 36

of the Oklahoma Statutes, as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes, and in his report to the State Auditor and Inspector and the State Treasurer he shall certify the exact amount. The State Treasurer shall issue a warrant to the State Board, for the benefit of the System, for the amount of which the Fund shall be entitled and shall deliver the warrant to the State Board.
Amended by Laws 1985, c. 222, § 9, emerg. eff. July 8, 1985; Laws 1988, c. 83, § 2, emerg. eff. March 25, 1988.

§11-49-121. Amount of first warrant pursuant to Section 49-120 - Eligibility of receive funds.

The amount of the first warrant drawn by the State Treasurer pursuant to Section49-120 of this title shall never be less than Five Hundred Dollars ($500.00). Any municipality having a firefighting apparatus of a value of not less than One Thousand Dollars ($1,000.00), may qualify and receive the benefits of the funds made available by the provisions of Section 49-120 of this title, by meeting all the other requirements thereof.
Laws 1977, c. 256, § 49-121, eff. July 1, 1978; Laws 1978, c. 280, § 3, eff. Jan. 1, 1979; Laws 1980, c. 352, § 31, eff. Jan. 1, 1981.

§11-49-122. Deductions from salaries of fire department members - Picked up contributions - Deposit of funds - City charters superceded.

A. Each municipality having a paid member of a fire department shall deduct monthly from the salary of each member of the fire department of such municipality an amount equal to nine percent (9%) of the actual paid gross salary of each member of the fire department. The deduction shall be considered the minimum deduction. At the option of the municipality, the municipality may pay all or any part of the member's required contribution. The treasurer of each municipality shall deduct the authorized deductions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit within ten (10) days from each ending payroll date in the System the amount deducted from the salary of each member of the fire department. Amounts deducted from the salary of a member and not paid to the System after thirty (30) days from each ending payroll date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the municipality to the System.

Each municipality shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions

being paid by the municipality in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986, as amended, and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the municipality to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the municipality. Member contributions so picked up shall be included in salary for purposes of the System.

The municipality shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member, or by an offset against future salary increases, or by a combination of reduction in gross salary and offset against future salary increases.

The treasurer of each municipality shall deduct the picked up contributions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit monthly in the System the amount picked up from the salary of each member of the fire department.

B. Each municipality having a paid member of a fire department shall deposit monthly with the State Board an amount equal to the following:

1. Prior to July 1, 1991, ten percent (10%) of the total actual paid gross salaries of the members of the fire department;

2. Beginning July 1, 1991 through June 30, 1992, ten and one-half percent (10 1/2%) of the total actual paid gross salaries of the members of the fire department;

3. Beginning July 1, 1992 through June 30, 1993, eleven percent (11%) of the total actual paid gross salaries of the members of the fire department;

4. Beginning July 1, 1993 through June 30, 1994, eleven and one-half percent (11 1/2%) of the total actual paid gross salaries of the members of the fire department;

5. Beginning July 1, 1994 through June 30, 1995, twelve percent (12%) of the total actual paid gross salaries of the members of the fire department;

6. Beginning July 1, 1995 through June 30, 1996, twelve and one-half percent (12 1/2%) of the total actual paid gross salaries of the members of the fire department;

7. Beginning July 1, 1996, thirteen percent (13%) of the total actual paid gross salaries of the members of the fire department; and

8. Beginning November 1, 2013, fourteen percent (14%) of the total actual paid gross salaries of the members of the fire department.

C. Each county or municipality having a volunteer member of a fire department shall deposit yearly with the State Board Sixty Dollars ($60.00) for each volunteer member of the department.

Provided, the above-mentioned volunteer county or municipal contributions shall be reevaluated by the next scheduled actuarial study and the amounts adjusted so that in a nine-year period of time, the amounts would reflect the actuarial recommendations at that time. Any county or municipality with an income of less than Twenty-five Thousand Dollars ($25,000.00) to its general fund during a fiscal year shall be exempt from the provisions of this subsection.

Any municipality that fails to comply with the provisions of this section shall not be entitled to its proportionate share of the Motor Fuel Excise Tax which is received through the Oklahoma Tax Commission. Any county or municipality may exceed the amount of contribution required by this section.

The provisions of this section shall supersede any city charter provision in direct conflict with this section.

Added by Laws 1977, c. 256, § 49-122, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 32, eff. Jan. 1, 1981; Laws 1984, c. 287, § 2, operative July 1, 1984; Laws 1987, c. 236, § 149, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 4, operative July 1, 1988; Laws 1990, c. 340, § 4, eff. July 1, 1990; Laws 1992, c. 376, § 1, eff. July 1, 1992; Laws 1998, c. 299, § 2, emerg. eff. May 28, 1998; Laws 2010, c. 438, § 7, emerg. eff. June 9, 2010; Laws 2013, c. 165, § 4, eff. Nov. 1, 2013.

§11-49-122.1. Firefighters Pension and Retirement Fund - Establishment - Deposit and investment of contributions.

There is hereby established a fund to be designated as the Oklahoma Firefighters Pension and Retirement Fund. All employee and employer contributions shall be deposited in the Fund and may be invested as provided in this article.

Laws 1980, c. 352, § 33, eff. Jan. 1, 1981.

§11-49-122.2. Transfer of assets to State Board.

Any municipality having a Firefighters Pension and Retirement Fund prior to January 1, 1981, shall transfer all assets of such fund to the State Board on July 1, 1981. Assets shall be transferred in the form of cash, negotiable securities and such other specific assets as permitted by the State Board.

Amended by Laws 1985, c. 222, § 10, emerg. eff. July 8, 1985.

§11-49-122.3. Assets of funds - Right to assets - Valuation.

The assets of the Fund shall consist of such assets and the income therefrom, including monthly contributions made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's assets.

Effective July 1, 2011, upon termination or partial termination of the System, or a permanent discontinuance of contributions, the benefits accrued up to the date of termination or discontinuance, to the extent then funded, by the affected members and their beneficiaries, respectively, or the amounts credited to the affected members' accounts, shall be nonforfeitable.

Added by Laws 1980, c. 352, § 35, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 11, emerg. eff. July 8, 1985; Laws 2000, c. 327, § 12, eff. July 1, 2000; Laws 2012, c. 364, § 9.

§11-49-122.4. Costs and expenses - Supplies and equipment.

A. All costs and expenses for the selection and compensation of investment counselors, institutional custodian service and commissions or other costs resulting from the purchase, sale or other transfer of assets shall be paid from the fund.

B. Three percent (3%) of the funds disbursed to the State Board under the provisions of Section 312.1 of Title 36 of the Oklahoma Statutes shall be retained by the State Board for the purpose of paying all costs and expenses, other than those provided for in

subsection A of this section, incurred in the operation, administration and management of the System. At the close of each fiscal year, any surplus shall be transferred to the Oklahoma Firefighters Pension and Retirement Fund.

C. The State Board is authorized to purchase such equipment and supplies as it deems necessary for the efficient operation, administration and management of the System. Payment for such equipment and supplies shall be made from the operating funds of the System.

Amended by Laws 1982, c. 320, § 4, operative July 1, 1982.

§11-49-122.5. Operation, administration and management of System - Responsibilities.

The State Board shall be responsible for the operation, administration and management of the System.

In order to carry out the responsibilities imposed by law upon them, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board.

The Executive Director shall perform the duties and services indicated below andsuch other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the local board;

2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;

3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;

5. Process all claims for payment of benefits or expenses for approval by the State Board; and

6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulation.

Amended by Laws 1982, c. 227, § 1, emerg. eff. May 4, 1982; Laws 1982, c. 320, § 5, operative July 1, 1982; Laws 1988, c. 321, § 8, operative July 1, 1988.

§11-49-122.6. Confidentiality of records.

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the Oklahoma Firefighters Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order.

Added by Laws 1993, c. 353, § 3, emerg. eff. June 10, 1993.

§11-49-123. Moneys to be paid over to State Board.

All moneys provided for the System by this article shall be paid over to and received by the State Board for the use and benefit of the System.

Laws 1977, c. 256, § 49-123, eff. July 1, 1978; Laws 1980, c. 352, § 38, eff. Jan. 1, 1981.

§11-49-124. Report by clerk of statistics as to fire department.

On forms supplied by the State Board, it is hereby made the duty of the clerk of each participating municipality in which an organized department is maintained to record annually with the State Board the name of such fire department and the number of fire fighters with their names, birthdate, date of appointment and date of expiration of term of service.

Added by Laws 1977, c. 256, § 49-125, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 39, eff. Jan. 1, 1981; Laws 1993, c. 353, § 4, emerg. eff. June 10, 1993; Laws 2009, c. 435, § 2, eff. July 1, 2009.

§11-49-126. Pensions and allowances exempt from claims - Assignments or transfers void - Exceptions.

A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or

in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, alternate payee, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of this state which relates to the provision of marital property rights to an alternate payee and which creates or recognizes the existence of the right of an alternate payee and assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

3. The term "alternate payee" means any spouse, former spouse, minor or disabled child or children, or other dependent of the member who is recognized by a domestic relations order as having a right to receive benefits payable with respect to a member of the System.

4. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

6. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

7. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to June 7, 1993.

8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

9. The alternate payee shall have a right to receive benefits payable to a member of the System under the Oklahoma Firefighters Deferred Option plan provided for pursuant to Section 49-106.1 of this title, but only to the extent such benefits have been credited or paid into the member's Oklahoma Firefighters Deferred Option Plan account during the term of the marriage.

10. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the earlier of the death of the related member or the death of the alternate payee. Upon the death of the alternate payee, the assignment to the alternate payee of the right to receive a portion of the benefits payable with respect to the member shall cease and the payments of benefits to the member shall be reinstated.

11. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

12. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

13. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

D. The provisions of subsection A of this section shall not apply to a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code of 1986, as amended, and the collection by the United States on a judgment resulting from an unpaid tax assessment.

E. The provisions of subsection A of this section shall not apply in the case of an overpayment to a member or other payee. Such overpayment may be corrected through a return of the overpayment, or an adjustment of future payments, or a combination of these two methods, as approved by the State Board. The term "other payee" shall include, but not be limited to, alternate payees as defined in subsection B of this section, beneficiaries, designated recipients, and other individuals eligible to receive benefits pursuant to Section 49-113 of this title.

Added by Laws 1977, c. 256, § 49-126, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 40, eff. Jan. 1, 1981; Laws 1993, c. 322, § 3, emerg. eff. June 7, 1993; Laws 1998, c. 198, § 2, eff. Nov. 1, 1998; Laws 1999, c. 193, § 5, eff. July 1, 1999; Laws 2000, c. 327, § 13, eff. July 1, 2000; Laws 2003, c. 334, § 4, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 7, eff. July 1, 2004; Laws 2007, c. 356, § 5, emerg. eff. June 4, 2007; Laws 2010, c. 438, § 8, emerg. eff. June 9, 2010.

§11-49-128. Appeals.

Any person possessing the qualifications required and provided for under this article, who deems himself aggrieved by a decision of the State Board on his or her claim for pension, either in rejecting his or her claim or in the amount allowed by the Board, or participating municipality, may appeal from such decision by filing a petition in the Oklahoma County District Court within thirty (30) days from the date of such decision.

Added by Laws 1977, c. 256, § 49-128, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 41, eff. Jan. 1, 1981; Laws 1997, c. 247, § 2, eff. July 1, 1997; Laws 1999, c. 193, § 6, eff. July 1, 1999.

§11-49-132. Use of moneys for payment of pensions and other benefits and administration of System.

Money paid to the State Board for the benefit of the System shall, unless otherwise provided by law relating to the apportionment and payment of such moneys to the several municipalities of this state, be used solely for the payment of such pensions and other benefits to retired members of such fire department, injured or otherwise disabled members of such fire department, and beneficiaries of deceased members of such fire department, and such expenses of administering the System, as may be authorized by law.

Laws 1977, c. 256, § 49-132, eff. July 1, 1978; Laws 1980, c. 352, § 43, eff. Jan. 1, 1980.

§11-49-133. Use of money for unauthorized purposes.

The Insurance Commissioner may examine the books and financial records of the State Board and when a written complaint is made to him under oath that any part of such money has been, or is being, expended or applied for purposes other than those authorized by Section 49-132 of this title, it shall be his duty to examine such books and financial records to determine if such complaint is true and if such an examination discloses that any such money has been, or is being, expended or applied for purposes other than those authorized, it shall be his duty to report that fact to the Governor. Upon receiving such report, the Governor shall direct the State Treasurer not to issue any warrants to the State Board for the municipality involved until the Insurance Commissioner reports to the Governor that all monies wrongfully expended or applied have been replaced; provided that, the Governor may take such further action as the situation may demand.

Laws 1977, c. 256, § 49-133, eff. July 1, 1978; Laws 1978, c. 280, § 4, eff. Jan. 1, 1979; Laws 1980, c. 352, § 44, eff. Jan. 1, 1981.

§11-49-134. Mandatory retirement at age sixty-five - Exception.

No person, who is eligible for retirement under the laws of this state pertaining to the System, shall serve in any capacity as a member of any fire department of any municipality of this state after having attained the age of sixty-five (65) years, provided, however, no person shall be required to retire because of the provisions of this section until such person shall have completed twenty (20) years service.

Laws 1977, c. 256, § 49-134, eff. July 1, 1978; Laws 1980, c. 352, § 45, eff. Jan. 1, 1981.

§11-49-135. Employment of persons over forty-five prohibited - Exceptions – Reemployment – Volunteer services.

A. No person shall be employed in a fire department who has reached the age of forty-five (45) years, unless it appears he or she shall become eligible for retirement at the age of sixty-five (65) years, or at the age of sixty-seven (67) years for a firefighter whose first service with a participating employer of the System occurs on or after November 1, 2013, or unless he or she be retired from a municipal fire department in the State of Oklahoma. This section shall not apply to professional engineers, or to persons employed as technical specialists on a temporary basis. The State Board shall be authorized to establish the maximum age, within the limits herein prescribed, over which an applicant may not be considered for initial employment, but no person shall be prohibited from making application for reemployment and having such reemployment application considered merely because of his or her age, provided that such person be under the age of forty-five (45) years, and

provided further, that such reemployment shall be with the consent of the fire chief of such municipality.

B. On or after the effective date of this act, a person who performs volunteer services as a firefighter, who has attained the age of forty-five (45) or more years as of the first date such volunteer services are performed, for a municipality or a county shall not be eligible to be a member of the Oklahoma Firefighters Pension and Retirement System for any purpose, shall not be eligible for any benefit payable by the System and shall not receive any form of service credit from the System resulting from such volunteer services. The person responsible for decisions regarding the performance of firefighting services having jurisdiction, which in the absence of any other requirement to the contrary shall be the Fire Chief, shall make the final determination on applicants for positions that would involve the performance of volunteer firefighting services if the applicant is over the age of forty-five (45) years based on local rules, regulations, ordinances, guidelines and standard operating procedures.

C. Notwithstanding the requirements of subsections C and H of Section 49-106.1 of this title to terminate employment with all participating municipalities as a firefighter, a person receiving an accrued retirement benefit pursuant to Section 49-106 of this title may perform volunteer firefighting services for a volunteer department pursuant to subsection B of this section and continue to receive the member's accrued retirement benefit; provided, that the pension shall cease during any period of time the member may thereafter serve for compensation in any municipal fire department in the state; provided further, that no person shall perform any services as a firefighter if such person is receiving disability benefits pursuant to Section 49-109 of this title.

Added by Laws 1977, c. 256, § 49-135, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 46, eff. Jan. 1, 1981; Laws 2014, c. 281, § 7, emerg. eff. May 12, 2014; Laws 2015, c. 134, § 1, eff. Nov. 1, 2015; Laws 2019, c. 146, § 1, eff. Nov. 1, 2019.

§11-49-138. Military service credit.

A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the Armed Forces of the United States whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same applies to a service pension; provided further, that the municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service but who

shall have volunteered for military or naval service for a period not to exceed five (5) years shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless required to do so by law, such person shall not thereafter be entitled to the provisions of this subsection. The provisions of this subsection shall not apply where any such person dies during the period of said service or enlistment, and shall not entitle the surviving spouse or children to any benefits, and shall not apply to any member who shall have served on active duty (including initial active duty) for training purposes only and/or inactive duty training.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Firefighters Pension and Retirement System.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:

   a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
   b. September 16, 1940, to December 7, 1941, for members of the 45th Division,
   c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
   d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,

e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
(1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
(2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or

f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

D. An eligible member pursuant to subsection C of this section shall include only those persons who shall have served during the times or in the areas prescribed in subsection C of this section, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection C of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran’s Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection C of this section shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. Notwithstanding any provision herein to the contrary:

1. Contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA); and

2. Effective January 1, 2007, if any member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended), the survivors of the member are entitled to any additional benefits (other than benefits accruals relating to the period of qualified military service) provided under the System had the member resumed and then terminated employment on account of death.

F. Members or beneficiaries shall make application to the System for credited service related to wartime military service. Interest on additional benefits related to wartime military service owed by the System to a retired member or beneficiary as provided by law shall cease accruing one (1) year after the effective date the additional benefits are payable by the System or July 1, 2000, whichever is later, if the member has not applied to the System for credited service related to such wartime military service.

Added by Laws 1977, c. 256, § 49-138, eff. July 1, 1978. Amended by Laws 1991, c. 125, § 3, emerg. eff. April 29, 1991; Laws 1997, c. 237, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 192, § 1, eff. July 1, 1998; Laws 1999, c. 193, § 7, eff. July 1, 1999; Laws 2000, c. 327, § 14, eff. July 1, 2000; Laws 2003, c. 406, § 1, eff. July 1, 2003; Laws 2004, c. 302, § 1, emerg. eff. May 13, 2004; Laws 2005, c. 203, § 4, emerg. eff. May 20, 2005; Laws 2010, c. 438, § 9, emerg. eff. June 9, 2010.

§11-49-139. Persons carried on roll of members during military absence - Advancements and promotions - Reinstatement - Reduction of compensation or dismissal.

Any such person shall be carried on the roll of members of the fire department during such absence and shall be entitled to all advancements, seniority and promotions under the rules, regulations and customs of the fire department, during his said absence, and all advancements and promotions made in the fire department during his absence in such military or naval service to which he would have been entitled shall only be filled temporarily and shall be subject to the rights of such person who shall, within ninety (90) days after he has been honorably discharged or received a certificate as a reserve component of the land or naval services, have the right to make application for reinstatement, and he shall have preference over any and all members of the fire department who have been employed by such municipality subsequent to his entering said military or naval service, and upon such application it shall be the duty of the

executive head of the fire department to reinstate such person as an actual member of the fire department with all rights of advancements and promotions, provided, he has not been mentally or physically disabled since last serving in such fire department and is able to pass the usual and customary physical and mental examination then required by the State Board for entry into said fire department, and he shall not thereafter be subject to reduction of compensation or dismissal without just cause.
Laws 1977, c. 256, § 49-139, eff. July 1, 1978; Laws 1980, c. 352, § 48, eff. Jan. 1, 1981.

§11-49-140. Rejection for reinstatement - Examination by physicians.

If any person feels aggrieved by the findings of the physician giving the examination provided for in the preceding section, he may by written notice served upon the head of the fire department within thirty (30) days after he has been rejected for reinstatement, name one licensed physician to act with said examining physician, and the two said physicians shall, within eight (8) days thereafter, select a third physician, and the three said physicians shall, within ten (10) days thereafter, jointly examine said person, and within five (5) days thereafter certify to the State Board their findings. The findings of any two of said physicians shall be binding on all parties as to the physical and mental conditions of such person. If the two examining physicians first selected are unable to agree upon a third, then the presiding judge of the Oklahoma County district court shall name the third physician.
Laws 1977, c. 256, § 49-140, eff. July 1, 1978; Laws 1980, c. 352, § 49, eff. Jan. 1, 1981.

§11-49-141. Participation in independent insurance or other benefits.

Any such person shall be entitled to participate in any independent insurance or other benefits offered by such municipality, or its fire department or members thereof, to the same effect as though he were in the actual service of such fire department.
Laws 1977, c. 256, § 49-141, eff. July 1, 1978.

§11-49-142. Refusal to comply with act - Petition to district court - District attorney to represent applicant - Fees and costs.

In case a municipality, or official thereof, refuses to comply with the provisions of Sections 49-138 through 49-142 of this title, then any person entitled to the benefits hereof may file a petition in the Oklahoma County district court, without cost deposit, to specifically require such municipality, or official thereof, to comply with said provisions, and, as incident thereto, to compensate said person for any loss of wages or benefits suffered by such refusal. The court shall order a speedy hearing in any such case and

shall advance it on the calendar. Upon application to the Oklahoma District Attorney by any person claiming to be entitled to the benefits of the provisions hereof, such District Attorney, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of the petition and the prosecution thereof. The action in the district court shall be brought within ninety (90) days from the date of the refusal of the municipality, or its representative, to comply with the provisions of this act. No fees or court costs shall be taxed against the person so applying.
Laws 1977, c. 256, § 49-142, eff. July 1, 1978; Laws 1980, c. 352, § 50, eff. Jan. 1, 1981.

§11-49-143. Increase in pension benefits.
Any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 1986, shall receive a six percent (6%) increase in said benefits on July 1, 1986. The provisions of this section shall not apply to members receiving Added by Laws 1985, c. 222, § 12, emerg. eff. July 8, 1985. Amended by Laws 1986, c. 187, § 2, operative July 1, 1986.

§11-49-143.1. Increase in benefits - Amount - Offset.
A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of this title, effective July 1, 2002, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2001, who continues to receive benefits on or after July 1, 2002, shall receive a five percent (5%) increase in said benefits on July 1, 2002.
B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of this title after June 30, 2000, shall be used to offset the increase in benefits provided in subsection A of this section.
C. Effective July 1, 2002, any persons receiving benefits pursuant to Section 49-101 of this title shall each receive a benefit equal to Six Dollars and sixty-nine cents ($6.69) for each year of credited service not to exceed thirty (30) years of service.
Added by Laws 1988, c. 267, § 5, operative July 1, 1988. Amended by Laws 1990, c. 340, § 5, eff. July 1, 1990; Laws 1994, c. 383, § 3, eff. July 1, 1994; Laws 1998, c. 317, § 1, eff. July 1, 1998; Laws 1999, c. 228, § 1, eff. July 1, 1999; Laws 2000, c. 377, § 1, eff. July 1, 2000; Laws 2002, c. 394, § 1, eff. July 1, 2002.

§11-49-143.2. Additional retirement benefit.
A. The Oklahoma Firefighters Pension and Retirement System shall pay to its retirees, who retire not later than June 30, 1997, or

their beneficiaries, from assets of the retirement system, an additional amount, for the fiscal year ending June 30, 1998, based upon the number of years of credited service upon which the retirement benefit of the member was computed as follows:

1. For paid firefighters:
    a. One Hundred Fifty Dollars ($150.00) for at least ten (10), but no more than fourteen (14) years of service,
    b. Three Hundred Dollars ($300.00) for at least fifteen (15), but no more than nineteen (19) years of service,
    c. Four Hundred Fifty Dollars ($450.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
    d. Six Hundred Dollars ($600.00) for twenty-five (25) or more years of service.
2. For volunteer firefighters:
    a. Seventy-five Dollars ($75.00) for at least ten (10), but no more than fourteen (14) years of service,
    b. One Hundred Fifty Dollars ($150.00) for at least fifteen (15), but no more than nineteen (19) years of service,
    c. Two Hundred Twenty-five Dollars ($225.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
    d. Three Hundred Dollars ($300.00) for twenty-five (25) or more years of service;
3. One Hundred Fifty Dollars ($150.00) for a paid firefighter with less than ten (10) years of service who received a disability retirement; and
4. Seventy-five Dollars ($75.00) for a volunteer firefighter with less than ten (10) years of service who received a disability retirement.

B. For purposes of subsection A or B of this section, months of credited service in excess of a whole number of years shall be disregarded for purposes of determining the applicable payment amount.

C. The payment authorized by this section shall be distributed not later than August 1, 1997.

D. The payment authorized by this section shall not be a recurring benefit and shall only be made for the fiscal year ending June 30, 1998, and for no other fiscal year.

E. If a retiree has multiple beneficiaries, the amount prescribed by subsection A of this section shall be divided equally among the beneficiaries on a per capita basis.

Added by Laws 1997, c. 384, § 19, eff. July 1, 1997.

§11-49-143.3. Benefit adjustment - Restoration of Initial COLA Benefit.

A. For purposes of this section the following definitions shall apply:

1. "Initial COLA Benefit Date" means the later of the member's date of benefit commencement or January 1, 1981. This date is used in the definition of Initial COLA Benefit and Target COLA Benefit;

2. "Initial COLA Benefit" means the accrued retirement benefit which will be used as the base benefit for determining the Target COLA Benefit. The Initial COLA Benefit equals the benefit in payment status as of the Initial COLA Benefit Date. Furthermore, this benefit will reflect adjustment for military service credits, if any, granted after the Initial COLA Benefit Date;

3. "CPI-U" means the Consumer Price Index for all urban consumers for all goods and services, as published by the Bureau of Labor Statistics, U.S. Department of Labor. This is used as a measure of price inflation for the development of the Target COLA Benefit defined below; and

4. "Target COLA Benefit" is the Initial COLA Benefit adjusted to reflect price inflation as measured by CPI-U. The Target COLA Benefit is calculated for each eligible member to equal the member's Initial COLA Benefit multiplied by a ratio of (A) divided by (B) as follows:

(A) is the CPI-U as of July 1, 1997.

(B) is the CPI-U as of July 1 of the calendar year of the Initial COLA Benefit Date.

B. The Board shall, effective July 1, 1999, implement a benefit adjustment, to increase, if necessary, the retirement benefit for any person receiving benefits from the System as of June 30, 1997. This benefit adjustment is intended to restore one hundred percent (100%) of the loss of the Initial COLA Benefit, if any, due to price inflation, as measured by CPI-U. The benefit adjustment shall be one hundred percent (100%) of the amount by which the Target COLA Benefit is in excess, if any, of the June 1998 retirement benefit. Persons who retired after December 31, 1996 and before July 1, 1997, shall receive a benefit increase based on one hundred percent (100%) of one-half (1/2) of the CPI-U change for the period beginning January 1, 1997 and before July 1, 1997.

C. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes, after June 30, 1998, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 1998, c. 317, § 2, eff. July 1, 1998. Amended by Laws 1999, c. 228, § 2, eff. July 1, 1999.

§11-49-143.4. Firefighters Pension and Retirement System - Increase in benefits - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11

of the Oklahoma Statutes, effective July 1, 2004, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a four-percent increase in said benefits beginning in July 2004.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2002, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2004, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to Six Dollars and ninety-six cents ($6.96) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2004, c. 536, § 2, eff. July 1, 2004.

§11-49-143.5. Increase in benefits - July 1, 2006 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2006, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a four-percent increase in said benefits beginning in July 2006.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2004, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2006, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to Seven Dollars and twenty-four cents ($7.24) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2006, 2nd Ex. Sess., c. 46, § 5, eff. July 1, 2006.

§11-49-143.6. Increase in benefits - July 1, 2008 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2008, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2007, who continues to receive benefits on or after July 1, 2008, shall receive a four-percent increase in said benefits on July 1, 2008.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2006, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2008, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a benefit equal to Seven Dollars and fifty-three cents ($7.53) for each year of credited service not to exceed thirty (30) years of service.
Added by Laws 2008, c. 415, § 1, eff. July 1, 2008.

§11-50-101. Definitions.

As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;

2. "Article" means Article 50 of this title;

3. "State Board" means the Oklahoma Police Pension and Retirement Board;

4. "Fund" means the Oklahoma Police Pension and Retirement Fund;

5. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;

6. "Member" means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction. A member shall include eligible commissioned officers of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission who elect to participate in the System pursuant to Section 50-111.5 of this title;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems or credited service granted by the State Board;

9. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall be treated in the same manner as a participating municipality only regarding those members who elect to participate in the System pursuant to Section 50-111.5 of this title;

10. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

11. "Permanent partial disability" means permanent disability which is less than permanent total disability as defined in this section. The member must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

12. "Permanent in-line disability" means incapacity to earn any wages as a certified, commissioned police officer due to accidental injury or occupational disease, incurred while in, and in consequence of, the performance of duty as an officer;

13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly

attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a police officer shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

14. "Executive Director" means the managing officer of the System employed by the State Board;

15. "Eligible employer" means any municipality with a municipal police department;

16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

17. "Final average salary" means the average paid base salary of the member for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Effective July 1, 2016, the following shall apply in computing final average salary:

a. only paid base salary on which required contributions have been made shall be used in computing a member's final average salary,

b. for purposes of determining the normal disability benefit only, final average salary shall be based on the member's total service if less than thirty (30) months,

c. in addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 2002, the annual compensation of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) annual compensation limit. The EGTRRA annual compensation limit is Two Hundred Thousand Dollars ($200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual compensation limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual compensation limit will be multiplied by a fraction,

the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996,

d. for plan years beginning on or after July 1, 2002, any reference in the System to the annual compensation limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA annual compensation limit set forth in this provision, and

e. effective January 1, 2008, back pay, within the meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as paid base salary for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition;

18. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

19. "Normal disability benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by twenty (20) years;

20. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, which year shall be the calendar year;

21. "Paid base salary" means, effective July 1, 2016, any compensation described in subparagraph a of this paragraph that is not described in subparagraph b of this paragraph.

a. Paid base salary shall include only:

(1) normal compensation paid on a regularly scheduled pay period, including, but not limited to, regular pay for holidays, paid time off, vacation or annual leave, sick leave or compensatory time in lieu of overtime, any lump sum payment paid in lieu of a normal wage increase, provided such lump sum payment is retroactively applied over the prior twelve-month period ending with the payment date, compensation for bomb squad pay, education pay, incentive pay, K-9 pay, negotiation pay, shift differential, sniper pay, SWAT team pay, emergency response team pay, any other special unit pay, and any incremental increase in compensation which is not included by the employer in a member's regular base pay for salary increase purposes but is paid by the employer to the member

for group health benefits based on an arrangement with a participating municipality that was in place on December 31, 2015, so long as the arrangement continues uninterrupted for a member employed by a participating municipality on June 30, 2016, who has not since terminated employment and been rehired by such participating municipality,

(2) any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended, that would have been treated as paid base salary but for the salary deferral reduction agreement,

(3) any amount of elective salary reduction not includable in the gross income of the member under Section 132(f)(4) of the Internal Revenue Code of 1986, as amended, that would have been treated as paid base salary but for the salary deferral reduction agreement,

(4) any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, that would have been treated as paid base salary but for the salary deferral reduction agreement,

(5) any amount of elective salary reduction under Section 401(k) of the Internal Revenue Code of 1986, as amended, that would have been treated as paid base salary but for the salary deferral reduction agreement,

(6) any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended,

(7) educational allowances paid to obtain training certification or pursue an advanced degree,

(8) longevity payments made to members based upon a standardized plan which recognizes length of service to the participating municipality,

(9) paid base salary shall also include base salary, as described in divisions (1) through (8) of this subparagraph, for services, but paid by the later of two and one-half (2 1/2) months after a member's severance from employment or the end of the calendar year that includes the date the member terminated employment, if it is a payment that, absent a severance from employment, would have been paid to the member while the member

continued in employment with the participating municipality,

(10) any payments not described in divisions (1) through (9) of this subparagraph shall not be considered paid base salary if paid after severance from employment, even if they are paid by the later of two and one-half (2 1/2) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except payments to an individual who does not currently perform services for the participating municipality by reason of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the participating municipality rather than entering qualified military service,

(11) back pay, within the meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as paid base salary for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition, and

(12) paid base salary shall also include differential wage payments under Section 414(u)(12) of the Internal Revenue Code of 1986, as amended.

b. Notwithstanding anything to the contrary in this section, paid base salary shall not include any:

(1) fringe benefits, reimbursements, or increases in compensation due to reimbursements to the extent not specifically included above in subparagraph a of this paragraph,

(2) incremental increase in compensation which is not included by the employer in a member's regular base pay for salary increase purposes but is paid by the employer to the member for group health benefits not otherwise included above in division (1) of subparagraph a of this paragraph,

(3) insurance benefits, including any reimbursements thereof, or insurance proceeds of any type not otherwise included above in division (1) of subparagraph a of this paragraph,

(4) bonuses, including signing bonuses, lump-sum payments or stipends made to the member not otherwise included above in division (1) of subparagraph a of this paragraph,
(5) overtime compensation,
(6) payments whether prior to or upon termination of employment for accumulated unused vacation or unused annual leave, accumulated unused sick leave, or accumulated unused paid time off or other unused leave,
(7) payments made in error to a member,
(8) payments made by the participating municipality for services rendered by the member, which services are not part of the member's job duties and responsibilities of his or her job position with the participating municipality,
(9) severance pay,
(10) unemployment payments, and
(11) uniform and equipment allowances; and

22. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received based on interest rate and mortality assumptions set by the State Board, in a manner that precludes employer discretion, and based upon recommendations from independent professional advisors, and which shall be published annually in the actuarial report.

Added by Laws 1977, c. 256, § 50-101, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 1, eff. Jan. 1, 1981; Laws 1985, c. 221, § 1, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 150, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 6, operative July 1, 1988; Laws 1990, c. 143, § 3, emerg. eff. May 1, 1990; Laws 1993, c. 126, § 5, emerg. eff. May 3, 1993; Laws 1994, c. 84, § 3, eff. July 1, 1994; Laws 1995, c. 173, § 1, eff. July 1, 1995; Laws 1996, c. 208, § 2, emerg. eff. May 21, 1996; Laws 1996, c. 288, § 1, emerg. eff. June 5, 1996; Laws 1999, c. 257, § 1, eff. July 1, 1999; Laws 2000, c. 307, § 1, eff. July 1, 2000; Laws 2001, c. 5, § 3, emerg. eff. March 21, 2001; Laws 2001, c. 183, § 1, emerg. eff. May 2, 2001; Laws 2001, c. 414, § 2, eff. July 1, 2001; Laws 2002, c. 340, § 1, eff. July 1, 2002; Laws 2003, c. 137, § 1, emerg. eff. April 25, 2003; Laws 2009, c. 169, § 1, emerg. eff. May 11, 2009; Laws 2010, c. 437, § 1, emerg. eff. June 9, 2010; Laws 2016, c. 346, § 1, eff. July 1, 2016.

NOTE: Laws 1996, c. 141, § 1 repealed by Laws 1996, c. 288, § 9, eff. Nov. 1, 1996. Laws 2000, c. 287, § 1 repealed by Laws 2001, c. 5, § 4, emerg. eff. March 21, 2001. Laws 2001, c. 199, § 1 repealed by Laws 2001, c. 414, § 14, eff. July 1, 2001.

§11-50-102. Repealed by Laws 1980, c. 356, § 42, eff. Jan. 1, 1981.

§11-50-102.1. Police Pension and Retirement System - Creation - Status - Powers and duties.

There is created the Oklahoma Police Pension and Retirement System which shall be a body corporate and an instrumentality of this state. The System shall be vested with the powers and duties specified in this act and such other powers as may be necessary to enable it and its officers and employees to carry out fully and effectively the purposes and intent of this article. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System, including defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purpose. This System shall be the responsibility of the state and not that of the participating municipalities.

Added by Laws 1980, c. 356, § 2, eff. Jan. 1, 1981. Amended by Laws 2000, c. 287, § 2, eff. July 1, 2000.

§11-50-103. Repealed by Laws 1980, c. 356, § 42, eff. Jan. 1, 1981.

§11-50-103.1. Police Pension and Retirement Board - Composition - Areas of representation - Terms - Vacancies - Selection criteria - Officers.

A. There shall be an Oklahoma Police Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Seven members shall be elected as follows:
   a. One member shall be elected to represent State Board District 1. State Board District 1 shall include that area of the state, except for any area comprising Oklahoma City, that is north of Interstate Highway 40 and west of Interstate Highway 35;
   b. One member shall be elected to represent State Board District 2. State Board District 2 shall include that area of the state, except for any area comprising Oklahoma City, that is south of Interstate Highway 40 and west of Interstate Highway 35;
   c. One member shall be elected to represent State Board District 3. State Board District 3 shall include that area of the state, except for any area comprising Oklahoma City or Tulsa, that is north of Interstate Highway 40 and east of Interstate Highway 35;
   d. One member shall be elected to represent State Board District 4. State Board District 4 shall include that area of the state, except for any area comprising Oklahoma City, that is south of Interstate Highway 40 and east of Interstate Highway 35;

e. One member shall be elected to represent State Board District 5. State Board District 5 shall include that area of the state comprising the City of Tulsa;
f. One member shall be elected to represent State Board District 6. State Board District 6 shall include that area of the state comprising the City of Oklahoma City; and
g. One member shall be elected to represent State Board District 7. State Board District 7 shall include the entire area of the state.

The members elected to represent State Board Districts 1 through 6 shall be active members of the System and work for a participating municipality whose police department is physically located within the State Board District. The member elected to represent State Board District 7 shall be a retired member of the System. Elections for the State Board Districts shall be held within six (6) months of the date of the expiration of the term of office of a member or of the date a vacancy occurs on such dates that are set by the State Board. The initial term of office for State Board Districts 2, 5 and 7 shall begin on July 1, 1989. The initial term of office for State Board Districts 3 and 6 shall begin on July 1, 1990. The initial term of office for State Board Districts 1 and 4 shall begin on July 1, 1991. The term of office of the elected members shall be three (3) years. Only members of the System working for a participating municipality whose police department is physically located within the respective State Board Districts may participate in the election process for State Board Districts 1 through 6. Only retired members of the System may participate in the election process for State Board District 7.

2. One member shall be appointed by the Speaker of the House of Representatives;

3. One member shall be appointed by the President Pro Tempore of the Senate;

4. One member shall be appointed by the Governor;

5. One member shall be appointed by the President of the Oklahoma Municipal League;

6. One member shall be the State Insurance Commissioner or the Commissioner's designee; and

7. One member shall be the Director of the Office of Management and Enterprise Services or the Director's designee.

B. 1. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act, shall expire on January 3, 1989. The members thereafter appointed by the Speaker of the House of

Representatives and by the President Pro Tempore of the Senate shall serve terms of office of four (4) years.

2. The term of office of the member appointed by the Governor who is a member of the State Board on the operative date of this act shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

3. The initial term of office of the member appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990. The members thereafter appointed by the President of the Oklahoma Municipal League shall serve terms of office of four (4) years.

4. Any vacancy that occurs shall be filled for the unexpired term in the same manner as the office was previously filled.

C. The members appointed to the State Board by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor and the President of the Oklahoma Municipal League or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management;

2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management;

3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

4. Be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

Added by Laws 1980, c. 356, § 3, eff. Jan. 1, 1981. Amended by Laws 1986, c. 12, § 1, eff. July 1, 1986; Laws 1987, c. 236, § 151, emerg. eff. July 20, 1987; Laws 1988, c. 321, § 9, operative July 1, 1988; Laws 2003, c. 51, § 1, eff. July 1, 2003; Laws 2004, c. 551, § 1, emerg. eff. June 9, 2004; Laws 2012, c. 304, § 49.

§11-50-104. Repealed by Laws 1980, c. 356, § 42, eff. Jan. 1, 1981.

§11-50-104.1. Meetings of State Board - Special meetings - Notice - Quorum - Travel expenses.

A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place thereof to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight (8) members of the State Board. Notice of a special meeting shall be mailed to all State Board members not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven (7) State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven (7) State Board members at a regular, special, or emergency meeting of the State Board.

C. State Board members shall be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act.

Added by Laws 1980, c. 356, § 4, eff. Jan. 1, 1981. Amended by Laws 1985, c. 178, § 10, operative July 1, 1985; Laws 1988, c. 321, § 10, operative July 1, 1988; Laws 2000, c. 287, § 3, eff. July 1, 2000; Laws 2003, c. 51, § 2, eff. July 1, 2003.

§11-50-104.2. Office facilities - Record of proceedings - Financial statement - Audits.

A. The principal office of the System shall be in Oklahoma City, Oklahoma. Notwithstanding any statute or rule to the contrary, the State Board, in accordance with its fiduciary duty, is hereby authorized to own and occupy necessary office space in suitable quarters as the State Board deems appropriate.

B. The State Board shall keep a record of all of its proceedings, which shall be open for inspection at all reasonable hours. A report including such information as the operation of the System for the past fiscal year, including income, disbursements, and

the financial condition of the fund at the end of each fiscal year and showing the valuation of its assets, investments, and liabilities, shall be delivered to the Governor after the end of each fiscal year but prior to October 1 of the next fiscal year and made available to the members and participating municipalities.

C. The State Auditor and Inspector shall make an annual audit of the accounts of the System. The audit shall be filed as soon after the close of the fiscal year as practicable, in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1980, c. 356, § 5, eff. Jan. 1, 1981. Amended by Laws 1983, c. 304, § 7, eff. July 1, 1983; Laws 1985, c. 221, § 2, emerg. eff. July 8, 1985; Laws 1995, c. 173, § 2, eff. July 1, 1995; Laws 1996, c. 290, § 3, eff. July 1, 1996; Laws 2012, c. 279, § 1, eff. July 1, 2012.

§11-50-105.1. Executive Director - Employees - Acceptance of gifts or gratuities - Actuary - Legal services.

A. The State Board shall appoint an Executive Director. Subject to the policy direction of the State Board, the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

C. The members of the State Board, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of the amount per year permitted by the Ethics Commission for all state officials and employees. The provisions of this section shall not be construed to prevent the members of the State Board, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

D. The State Board may select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary may at the direction of the State Board:

1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this article, and recommend to the State Board rates of employer

contributions required to establish and maintain the System on an adequate reserve basis;

2. As deemed necessary by the State Board, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and

3. Perform such other duties as may be assigned by the State Board.

E. The State Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the State Board for such compensation as set by the State Board. The Attorney General shall furnish such legal services as may be requested by the State Board.

Added by Laws 1980, c. 356, § 6, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 11, operative July 1, 1988; Laws 2000, c. 287, § 4, eff. July 1, 2000; Laws 2004, c. 551, § 2, emerg. eff. June 9, 2004.

§11-50-105.2. Administration of System - Rules and regulations - Accounts and records - Open meetings - Actuarial tables - Decisions of Board - Actions.

A. The State Board shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this article.

B. The State Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be filed with the Secretary of State.

C. The State Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

D. All meetings of the State Board shall be open to the public. The State Board shall keep a record of its proceedings.

E. The State Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

G. The State Board shall take all necessary action upon applications for pensions, disability benefits, refund of accumulated contributions and shall take action on all other matters deemed necessary by the State Board.

Amended by Laws 1985, c. 221, § 3, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 152, emerg. eff. July 20, 1987; Laws 1988, c. 321, § 12, operative July 1, 1988.

§11-50-105.3. Certified estimate of rate of contribution required, accumulated contributions and other assets of System.

The State Board shall certify to the Director of the Office of Management and Enterprise Services, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before November 1 of each year, an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System to pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, 1988.

Added by Laws 1983, c. 143, § 6, emerg. eff. May 26, 1983. Amended by Laws 1988, c. 267, § 7, operative July 1, 1988; Laws 2003, c. 51, § 3, eff. July 1, 2003; Laws 2012, c. 304, § 50.

§11-50-105.4. Duties of Board - Investments - Liability insurance - Investment managers - Custodial services - Reports.

A. The Oklahoma Police Pension and Retirement Board shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:
   a. providing benefits to participants and their beneficiaries, and
   b. defraying reasonable expenses of administering the System;
2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
4. In accordance with the laws, documents and instruments governing the System.

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member’s action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy.

The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The State Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board unless the State Board deems it necessary and prudent to do otherwise to fulfill its fiduciary responsibility. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services and any related custodial agreement or trust agreement is incorporated herein by reference. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. Any assets of the System may be invested in a collective investment fund or in a group trust that satisfies the requirements of Rev. Rul. 81-100, as further amended by Rev. Rul. 2004-67, Rev. Rul. 2008-40, and Rev. Rul. 2011-1, and as subsequently amended by future guidance. Each such collective investment fund or group trust is adopted, with respect to any monies invested therein, as part of the System, its trust, and custodial account and each such declaration of trust or trust agreement and related adoption, participation, investment management, subtrust or other agreements, as amended from time to time, with

respect to any monies invested therein, are incorporated by reference into the System, its trust agreement(s) or custodial agreement(s), upon approval by the State Board.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the State Board shall develop a written investment plan for the System.

G. After July 1 and before November 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performances of the System for the fiscal year.

H. The State Board shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report. Added by Laws 1988, c. 321, § 13, operative July 1, 1988. Amended by Laws 1992, c. 354, § 2; Laws 1995, c. 81, § 2, eff. July 1, 1995; Laws 2000, c. 287, § 5, eff. July 1, 2000; Laws 2002, c. 391, § 4, eff. July 1, 2002; Laws 2003, c. 51, § 4, eff. July 1, 2003; Laws 2004, c. 536, § 3, eff. July 1, 2004; Laws 2011, c. 379, § 3, eff. Sept. 1, 2011; Laws 2012, c. 53, § 1, emerg. eff. April 16, 2012.

§11-50-105.5. Duties of fiduciaries.

A. A fiduciary with respect to the Oklahoma Police Pension and Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;

2. lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Police Pension and Retirement System shall not:

1. deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. in the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Police Pension and Retirement System may:

1. invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Police Pension and Retirement System to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the Oklahoma Police Pension and Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;

2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the System.

Added by Laws 1988, c. 321, § 14, operative July 1, 1988.

§11-50-105.6. Deposit of contributions and dedicated revenues - Warrants and vouchers.

A. All employee and employer contributions and dedicated revenues shall be deposited in the Oklahoma Police Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Police Pension

and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Police Pension and Retirement System from the Oklahoma Police Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Police Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Police Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Police Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection.

Added by Laws 1988, c. 321, § 15, operative July 1, 1988.

§11-50-106. General powers of State Board.

The State Board shall, in addition to other powers herein granted, have power to:

1. Compel witnesses to attend and testify before it upon all matters connected with the operations of this article or ordinances enacted by any municipality relative to the System, and in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its Chairman or any member of the State Board may administer oaths to such witnesses;

2. Provide for the payment of all its necessary expenses, and pay for actuarial, legal and such other services as shall be required to transact the business of the System;

3. Provide all rules and regulations necessary for its guidance in conformity with the provisions of this article including the physical requirements for eligibility for initial membership in the System. In connection with such authority, on or after July 1, 2011, the State Board may permit, effective for applicable notices, elections and consents provided or made for a member, beneficiary, alternate payee or individual entitled to benefits under the System, the use of electronic media to provide such applicable notices and make such elections and consents as described in Section 1.401(a)-21 of the Income Tax Regulations;

4. For the purpose of meeting disbursements for pensions and other payments, to keep on deposit in one or more banks, trust companies or savings and loan associations, to the extent that such deposit is insured, what it considers an adequate amount of cash. No trustee or employee of the State Board shall, directly or indirectly, for himself or as an agent, in any manner use the assets of the System, except to make such current and necessary payments as are authorized by the State Board, nor shall any trustee or employee of the State Board become an endorser or surety or become in any manner an obligor for monies loaned by or borrowed from the State Board; and

5. Effective July 1, 1999, do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 50-106, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 8, eff. Jan. 1, 1981; Laws 1981, c. 343, § 3, emerg. eff. June 30, 1981; Laws 1982, c. 119, § 2; Laws 1982, c. 227, § 2, emerg. eff. May 4, 1982; Laws 1988, c. 321, § 16, operative July 1, 1988; Laws 2000, c. 287, § 6, eff. July 1, 2000; Laws 2012, c. 53, § 2, emerg. eff. April 16, 2012.

§11-50-106.1. Repealed by Laws 2003, c. 137, § 10, emerg. eff. April 25, 2003.

§11-50-106.2. Repealed by Laws 2003, c. 137, § 10, emerg. eff. April 25, 2003.

§11-50-106.3. Joining System - Application for affiliation - Consolidation of systems - Election to participate.

A. An eligible employer may join the System on the first day of any month. Application for affiliation shall be in the form of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the State Board to approve such resolution or action. Upon the filing of a certified copy of such resolution with the State Board, such election shall be irrevocable and the eligible municipality shall become a participating municipality on the first day of the month immediately following the filing of such election with the State Board. Participating municipalities shall be required to provide all documentation requested by the System relating to the administration of the System.

B. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article. A member claiming credit for prior municipal police service in Oklahoma shall file an application with the State Board. The date of filing such application shall be not more than ninety (90) days after the municipality's entry date. Any credit for such prior service shall not exceed five (5) years. Upon a favorable determination of the eligibility for and the amount of service credit under this section, the member shall pay the amount determined by the State Board pursuant to Section 50-111.4 of this title.

C. Any municipality that has a municipal police pension and retirement system prior to July 1, 1980, shall consolidate its system with the state System and become a participating municipality on the first entry date as provided in this article.

D. Any eligible employer of a municipality which is a participating employer in the Oklahoma Public Employees Retirement System on July 1, 1996, may become a participating municipality of the Oklahoma Police Pension and Retirement System if and only if a certified copy of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the Board to approve such a resolution, is filed with the Board. Such election shall be irrevocable.

1. All eligible officers who are initially employed in such a position on or after the date when the municipality becomes a participating municipality shall be members of the Oklahoma Police Pension and Retirement System and shall have no right to participate in the Oklahoma Public Employees Retirement System.

2. All eligible officers who were employed in such a position prior to the date when the municipality becomes a participating municipality shall have the right to make a one-time election on or before six (6) months following the date that the municipality became a participating municipality to participate in the Oklahoma Police Pension and Retirement System. Any such employee who fails to make the election provided in this paragraph shall remain in the Oklahoma Public Employees Retirement System.

a. Eligible officers electing to participate in the Oklahoma Police Pension and Retirement System shall be allowed to withdraw their accumulated contributions or elect a vested benefit in the Oklahoma Public Employees Retirement System as provided in Section 917 of Title 74 of the Oklahoma Statutes.

b. Eligible officers electing to participate in the Oklahoma Police Pension and Retirement System may file a claim for prior municipal police service in Oklahoma with the State Board and may receive the prior service credit, not to exceed five (5) years, upon payment for the service at the actuarial cost as determined by the State Board. In no event, however, shall any eligible officer electing to participate in the Oklahoma Police Pension and Retirement System be allowed to receive credit or benefits in the Oklahoma Police Pension and Retirement System for years of service for which the officer is already receiving or eligible to receive retirement credit or benefits in the Oklahoma Public Employees Retirement System.

Added by Laws 1980, c. 356, § 11, eff. Jan. 1, 1981. Amended by Laws 1987, c. 236, § 153, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 6, eff. July 1, 1990; Laws 1993, c. 352, § 1, eff. July 1, 1993; Laws 1996, c. 333, § 1, eff. July 1, 1996; Laws 2001, c. 183, § 2, emerg. eff. May 2, 2001; Laws 2003, c. 51, § 5, eff. July 1, 2003.

§11-50-107. Custody and disbursement of pension funds - Refund for overpayment.

A. All monies provided for the Fund of the System by this article, or by appropriation by any municipality, or by contribution from members, shall be paid over to and received by the State Board for the use and benefit of the System to be disbursed and handled as provided in this article.

B. Should any error in any records of the Oklahoma Police Pension and Retirement System result in any payee receiving more or less than the payee would have been entitled had the records been correct, the State Board shall correct such error and shall pay any underpayments or recover any overpayments. An error does not include a member's failure to submit required documents, including proof of military service, prior to the effective date of retirement, which date includes the member's entry into the Oklahoma Police Deferred Option Plan. If a member submits documents after the effective date of retirement, no adjustment in retirement benefits shall be made.

C. Should more than the amount of a participating municipality or member contributions be paid to the System by a participating municipality through a mistake of fact, the System shall refund the amounts paid to the participating municipality within one year after the date on which the mistaken contribution was made. The System shall not pay the participating municipality earnings attributable to such contribution but shall reduce the amount returned to the participating municipality pursuant to this subsection by the amount of losses attributable to such contribution.

Added by Laws 1977, c. 256, § 50-107, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 12, eff. Jan. 1, 1981; Laws 2003, c. 51, § 6, eff. July 1, 2003; Laws 2006, 2nd Ex.Sess., c. 46, § 16, eff. July 1, 2006; Laws 2014, c. 44, § 1, emerg. eff. April 15, 2014.

§11-50-108. Repealed by Laws 2003, c. 137, § 10, emerg. eff. April 25, 2003.

§11-50-109. Appropriation of percentage of annual salary of member of System.

Any municipality participating in the System shall appropriate funds, for the use and benefit of the System, as provided in the following schedule:

1. Prior to July 1, 1991, a minimum of ten percent (10%) of the actual paid base salary of each member of the System employed by the municipality;

2. Beginning July 1, 1991, a minimum of ten and one-half percent (10 1/2%) of the actual paid base salary of each member of the System employed by the municipality;

3. Beginning July 1, 1992, a minimum of eleven percent (11%) of the actual paid base salary of each member of the System employed by the municipality;

4. Beginning July 1, 1993, a minimum of eleven and one-half percent (11 1/2%) of the actual paid base salary of each member of the System employed by the municipality;

5. Beginning July 1, 1994, a minimum of twelve percent (12%) of the actual paid base salary of each member of the System employed by the municipality;

6. Beginning July 1, 1995, a minimum of twelve and one-half percent (12 1/2%) of the actual paid base salary of each member of the System employed by the municipality; and

7. Beginning July 1, 1996, a minimum of thirteen percent (13%) of the actual paid base salary of each member of the System employed by the municipality.

The sum appropriated shall be paid to the System within ten (10) days following the payroll period on which the contribution is based.

The state shall make such appropriation as is necessary to assure the retirement benefits provided by the article.

Laws 1977, c. 256, § 50-109, eff. July 1, 1978; Laws 1980, c. 356, § 14, eff. Jan. 1, 1981. Amended by Laws 1990, c. 340, § 7, eff. July 1, 1990.

§11-50-110. Contributions by members of System - Picked up contributions.

A. Each member in the System shall contribute to the System a minimum of eight percent (8%) of the member's actual paid base salary.

At the option of the participating municipality, the participating municipality may pay all or any part of the member's required contribution. The sums contributed shall be paid to the System as provided in this article within ten (10) days following the payroll period on which the contributions are based. Amounts deducted from the salary of a member and not paid to the System after thirty (30) days from each ending payroll date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the municipality to the System. All funds received by a participating municipality for police retirement purposes shall be forwarded to the State Board for credit to the Fund.

B. Each municipality shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the municipality in lieu of contributions by the member

in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the municipality to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the municipality. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

The municipality shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

Laws 1977, c. 256, § 50-110, eff. July 1, 1978; Laws 1980, c. 356, § 15, eff. Jan. 1, 1981; Laws 1988, c. 267, § 8, operative July 1, 1988; Laws 1992, c. 376, § 2, eff. July 1, 1992.

§11-50-111.1. Termination of service before normal retirement date - Refund of accumulated contributions - Election of vested benefit - Monthly retirement annuity - Rejoining System - Death without named beneficiary.

A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member withdraws the member's accumulated contributions, such member shall not have any recourse against the System for any type of additional benefits including, but not limited to, disability benefits. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of the annualized final average salary multiplied by the number of years of credited service.

If a terminated member has elected a vested benefit and subsequently returns to work as a police officer of a participating municipality, their vested benefit will be set aside and prior credited service will be reinstated.

B. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly accrued retirement benefits on the date the deceased member would have been eligible to receive the benefit.

C. Whenever a member has terminated or hereafter terminates covered employment and has withdrawn or hereafter withdraws the member's accumulated contributions and has rejoined or hereafter rejoins the System, the member, upon proper application and approval by the Board, may pay to the System the sum of the accumulated contributions the member has withdrawn or hereafter withdraws plus ten percent (10%) annual interest from the date of withdrawal and shall receive the same benefits as if the member had never withdrawn the contributions. A lump-sum payment for repayment of any amounts received because of a member's prior termination may be repaid by trustee-to-trustee transfers of non-Roth funds from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Those members who at the time of termination of employment could not withdraw any of their accumulated contributions shall receive credited service for the time employed as an officer prior to any such termination upon proper application and approval by the Board. To receive credit for such service, all required contributions and interest shall be paid within ninety (90) days of Board approval of the application. The provisions of this subsection shall not apply to any member who is receiving benefits from the System as of July 1, 1987.

D. If an active member dies and does not leave a beneficiary, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

Added by Laws 1980, c. 356, § 16, eff. Jan. 1, 1981. Amended by Laws 1985, c. 221, § 5, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 154, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 8, eff. July 1, 1990; Laws 1991, c. 335, § 4, emerg. eff. June 15, 1991; Laws 1993, c. 352, § 2, eff. July 1, 1993; Laws 1994, c. 2, § 5, emerg. eff. March 2, 1994; Laws 1995, c. 173, § 3, eff. July 1, 1995; Laws 2003, c. 137, § 2, emerg. eff. April 25, 2003; Laws 2004, c. 551, § 3, emerg. eff. June 9, 2004; Laws 2014, c. 44, § 2, emerg. eff. April 15, 2014; Laws 2016, c. 346, § 2, eff. July 1, 2016.

NOTE: Laws 1990, c. 143, § 4 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1993, c. 126, § 6 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§11-50-111.2. Transfer of credited service from or to other retirement system.

A. A member of the Oklahoma Police Pension and Retirement System may receive up to five (5) years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System or a county retirement system created pursuant to Section 951 of Title 19 of the Oklahoma Statutes or an Oklahoma municipal retirement system, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. The member shall decide the number of years of credited service, not to exceed five (5) years, to purchase. The State Board shall determine the amount for the purchase pursuant to Section 50-111.4 of this title. The amount may be paid through a trustee-to-trustee transfer to the Oklahoma Police Pension and Retirement System from another system designated in this section, and/or through payments made by the member. The transferred credited service of the member from another retirement system pursuant to this section shall not alter the member's normal retirement date or vesting requirements. The transferred credited service will be added after the member reaches normal retirement date or vesting date.

B. The Oklahoma Police Pension and Retirement System shall transfer credited service to another Oklahoma state retirement system upon request of former members. Upon transfer, the former member shall have forfeited all rights in the Oklahoma Police Pension and Retirement System. Employee and city contributions of the former municipal retirement systems prior to January 1, 1981, are not transferable.

Added by Laws 1987, c. 236, § 155, emerg. eff. July 20, 1987. Amended by Laws 1988, c. 267, § 9, operative July 1, 1988; Laws 1990, c. 340, § 9, eff. July 1, 1990; Laws 1993, c. 352, § 3, eff. July 1, 1993; Laws 2001, c. 183, § 3, emerg. eff. May 2, 2001; Laws 2018, c. 20, § 2, eff. Nov. 1, 2018.

§11-50-111.2A. Purchase of service credit for time served with Department of Defense or military.

A. A member of the System who terminates employment for the purpose of performing service as a police officer on a contract basis for the United States Department of Defense or for the State Department of the United States in a war zone may purchase not to exceed one (1) year of service credit for the period of time during which the member performed services for either of such entities, or any branch of the United States military or other entity operating under authority of the Department of Defense or the State Department, by making payment of all required employer and employee contributions

for the period of service during which the member was so privately employed.

B. The contributions required by this section shall be paid by the member within one (1) year of becoming reemployed by a participating employer of the System.

C. Service credit purchased according to the provisions of this section shall be counted for purposes of vesting, normal retirement date, eligibility to participate in the Deferred Option Retirement Plan and alternative to the Deferred Option Retirement Plan authorized by Section 50-111.3 of Title 11 of the Oklahoma Statutes and for purposes of computing the retirement benefit of the member. Added by Laws 2004, c. 434, § 2, eff. July 1, 2004.

§11-50-111.3. Deferred option plans.

A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-114 of this title, any member of the Oklahoma Police Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may make an irrevocable election to participate in the Oklahoma Police Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Section 50-101 et seq. of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Police Deferred Option Plan for a member shall not exceed five (5) years. Participation in the Oklahoma Police Deferred Option Plan must begin the first day of a month and end on the last day of a month. At the conclusion of a member's participation in the Oklahoma Police Deferred Option Plan, the member shall terminate employment with all participating municipalities as an officer, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may receive in-service distributions of such member's accrued monthly retirement benefit from the System if such member is reemployed by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System.

D. When a member begins participation in the Oklahoma Police Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 50-109 of this title. Municipal contributions for employees who elect the Oklahoma Police Deferred Option Plan shall be credited equally to the Oklahoma Police Pension and Retirement System and to the Oklahoma Police Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Police Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Police Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

3. Any other method of payment if approved by the State Board.

Notwithstanding any other provision contained herein to the contrary, commencement of distributions under the Oklahoma Police Deferred Option Plan shall be no later than the time as set forth in subsection C of Section 50-114 of this title.

G. If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid to the recipients designated in writing by the participant or, if none, to the surviving spouse who was married to the participant for the thirty (30) continuous months immediately preceding the death of the participant; provided, a surviving spouse of a participant who died in, and as a consequence of, the performance of the participant's duty for a participating municipality shall not be subject to the thirty-month marriage requirement for survivor benefits or, if no surviving spouse, to the estate of the participant.

H. In lieu of participating in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may make an irrevocable election to participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection as follows:

1. For purposes of this subsection, the following definitions shall apply:

a. "back drop date" means the date selected by the member, which is up to five (5) years before the member elects to participate in the Oklahoma Police Deferred Option Plan, but not before the date at which the member completes twenty (20) years of credited service,

b. "termination date" means the date the member elects to participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection, and the date the member

terminates employment with all participating municipalities as an active police officer, such termination has at all times included reemployment of a member by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System,

c. "earlier attained credited service" means the credited service earned by a member as of the back drop date, and earlier attained credited service cannot be reduced to less than twenty (20) years of credited service, and

d. "deferred benefit balance" means all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date, all of the member's contributions and one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated as if the member had participated in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D and E of this section from the back drop date to the termination date;

2. At the termination date, the monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance; the member shall terminate employment with all participating municipalities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the System. The provisions of subsections B, C, E, F and G of this section shall apply to this subsection. A member shall not participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection if the member has elected to participate in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section; and

3. If a member who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension dies prior to terminating employment, the surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Police Deferred Option Plan in accordance with this subsection on the day immediately preceding the death. The surviving spouse must have been married to the member for the thirty (30) continuous months preceding the member's death; provided, the surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating

municipality shall not be subject to the thirty-month marriage requirement for this election.
Added by Laws 1990, c. 111, § 1, eff. Oct. 1, 1990. Amended by Laws 1990, c. 340, § 10, eff. July 1, 1990; Laws 1990, c. 334, § 2, operative July 1, 1990; Laws 1993, c. 352, § 4, eff. July 1, 1993; Laws 2003, c. 137, § 3, emerg. eff. April 25, 2003; Laws 2003, c. 343, § 1, eff. July 1, 2003; Laws 2004, c. 551, § 4, emerg. eff. June 9, 2004; Laws 2008, c. 177, § 4, eff. July 1, 2008; Laws 2010, c. 437, § 2, emerg. eff. June 9, 2010; Laws 2019, c. 346, § 3, eff. July 1, 2019.
NOTE: Laws 1990, c. 247, § 1 repealed by Laws 1990, c. 340, § 45, eff. July 1, 1990.

§11-50-111.4. Transferred credited service - Computation of purchase price.

A. The Oklahoma Police Pension and Retirement Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit the member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. The computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Oklahoma Police Pension and Retirement Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Payments shall be made by payroll deductions unless the Oklahoma Police Pension and Retirement Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Oklahoma Police Pension and Retirement Board for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by the member, his or her estate or successor in interest within six (6) months after the member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless the member or beneficiary affirmatively waives the

additional six-month period in which to pay the unpaid balance. Notwithstanding anything herein to the contrary, lump-sum payments for a transferred credited service purchase may be made by a trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). The Oklahoma Police Pension and Retirement Board shall develop such procedures and may require such information from the distributing plan as it deems necessary to reasonably conclude that a potential rollover contribution is a valid rollover contribution under Section 1.401(a)(31)-1, Q&A-14(b)(2), of the Income Tax Regulations. Roth accounts and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service. A member making installment payments shall have the option of making a cash lump-sum payment for the balance of the actuarial purchase price with interest due through the date of payment by a trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth accounts and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

Added by Laws 1990, c. 340, § 11, eff. July 1, 1990. Amended by Laws 1993, c. 322, § 4, emerg. eff. June 7, 1993; Laws 2003, c. 137, § 4, emerg. eff. April 25, 2003; Laws 2004, c. 536, § 4, eff. July 1, 2004; Laws 2005, c. 137, § 1, emerg. eff. May 3, 2005; Laws 2015, c. 23, § 1, emerg. eff. April 7, 2015; Laws 2016, c. 346, § 3, eff. July 1, 2016.

§11-50-111.5. Written election - Employer and employee contributions and accrued earnings - Service.

A. Any individual who was a member with a vested benefit with the Oklahoma Police Pension and Retirement System on or after July 1, 1987, and who becomes appointed to a position in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, or the Alcoholic Beverage Laws Enforcement Commission may, at the time the individual accepts such position, elect in writing to remain a member of the Oklahoma Police Pension and Retirement System as long as the individual has not begun receiving benefits from the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System and shall not become a member of the Oklahoma Law Enforcement Retirement System. The agency shall send a copy of the written election to the Oklahoma Police Pension and Retirement System and the Oklahoma Law Enforcement Retirement System within five (5) business days from its signing. If such eligible individual does not elect to remain in the Oklahoma Police Pension and Retirement System pursuant to this subsection, then the individual may elect to transfer at a later date pursuant to subsection B of this section.

B. Any individual who was a member with a vested benefit with the Oklahoma Police Pension and Retirement System on or after July 1, 1987, and who subsequently entered the Oklahoma Law Enforcement Retirement System because he or she was appointed to a position in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, or the Alcoholic Beverage Laws Enforcement Commission or, effective July 1, 2013, through July 31, 2013, an individual who made an election under subsection A that had been accepted by the Oklahoma Police Pension and Retirement System who did not have a vested benefit may, at any time the member is an active employee of such agency and has not begun receiving benefits from the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System, elect in writing to reenter the Oklahoma Police Pension and Retirement System. Such written election shall be provided to the Oklahoma Police Pension and Retirement System. For purposes of this section, constructive receipt of the written election shall be the first day of the month following actual receipt.

1. A person who elects to transfer pursuant to this subsection shall have all of his or her employer and employee contributions made to the Oklahoma Law Enforcement Retirement System transferred to the Oklahoma Police Pension and Retirement System along with accrued earnings based upon the actuarial rate of return of the Oklahoma Law Enforcement Retirement System. Upon receiving the transfer of the employer and employee contributions and earnings, and notwithstanding the provisions of Section 50-111.4 of this title, the Oklahoma Police Pension and Retirement System shall treat the service that the member accrued in the Oklahoma Law Enforcement Retirement System as service in the Oklahoma Police Pension and Retirement System; and

2. Upon actual receipt of the written election pursuant to this subsection, the Oklahoma Police Pension and Retirement System shall notify the Oklahoma Law Enforcement Retirement System of the transfer election and shall send to the Oklahoma Law Enforcement Retirement System a copy of the election within five (5) business days. The Oklahoma Law Enforcement Retirement System shall transfer the employer and employee contributions and earnings of the transferring member to the Oklahoma Police Pension and Retirement System on or before the first day of the month following constructive receipt of the election. The transferring member shall then reenter the Oklahoma Police Pension and Retirement System beginning on the first day of the month following the month in which constructive receipt of the written election was made to the Oklahoma Police Pension and Retirement System. Any member who transfers to the Oklahoma Police Pension and Retirement System pursuant to this subsection shall have all service credit in the Oklahoma Law Enforcement Retirement System canceled.

C. Notwithstanding the provisions of Section 2-300 et seq. of Title 47 of the Oklahoma Statutes, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall make employer contributions to the Oklahoma Police Pension and Retirement System in the same manner as participating municipalities of the Oklahoma Police Pension and Retirement System for all members who either elect to remain in or elect to transfer to the Oklahoma Police Pension and Retirement System pursuant to this section. The electing member shall make employee contributions to the Oklahoma Police Pension and Retirement System as other participating members of the Oklahoma Police Pension and Retirement System.

Added by Laws 2000, c. 307, § 2, eff. July 1, 2000. Amended by Laws 2001, c. 199, § 2, eff. July 1, 2001; Laws 2013, c. 241, § 1, emerg. eff. May 13, 2013.

§11-50-112. Participation in System required - Eligibility.

A. All persons employed as full-time duly appointed or elected officers who are paid for working more than twenty-five (25) hours per week or any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality shall participate in the System upon initial employment with a police department of a participating municipality. All such persons shall submit to a physical-medical examination pertaining to sight, hearing, agility and other conditions the requirements of which shall be established by the State Board. The person shall be required to complete this physical-medical examination prior to the beginning of actual employment. This examination shall identify any preexisting conditions. Except as otherwise provided in this section, a police officer shall be not

less than twenty-one (21) nor more than forty-five (45) years of age when accepted for membership in the System. However, if a municipality should be found to be in noncompliance with the provisions of Article 50 of this title, as determined by the State Board, then any current full-time active police officer employed by a municipality as of July 1, 2001, shall not be denied eligibility to participate in the Oklahoma Police Pension and Retirement System solely due to age. The State Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article.

B. The police chief of any participating municipality may be exempt from membership in the System or may become a member provided the member is not a retired member and the requirements of this section are met at the time of employment.

C. A member of the System who has attained his or her normal retirement date may, if the member so elects, agree to terminate employment and retire as a member of the System and make an election to receive distributions from the System. If a retired member is reemployed by a participating municipality in the position of police chief or in a position which is not covered by the System, retirement shall include receipt by such retired member of in-service distributions from the System.

D. A former member of the System who terminates from covered employment and who has neither retired from the System nor entered the Oklahoma Police Deferred Option Plan and is later employed in a covered position with a participating municipality shall not be denied eligibility to become a member of the System because he or she is forty-five (45) years of age or older. If such member has withdrawn his or her contributions prior to re-entering the System and the member desires to receive credit for such prior service, then the member shall pay back such contributions and interest pursuant to Section 50-111.1 of this title.

E. Notwithstanding any other provision of law to the contrary, a municipality that employs two (2) or fewer full-time police officers may employ a police officer who is more than forty-five (45) years of age and who has never participated in the Oklahoma Police Pension and Retirement System, but such police officer shall not be eligible to participate in the System. Such police officer shall be counted in the limitation imposed by this subsection. Notwithstanding any other provisions of law, the State Board shall be granted access to information concerning a list of actively working police officers within the municipalities and agencies under the purview provided by the Council on Law Enforcement Education and Training.

Added by Laws 1977, c. 256, § 50-112, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 17, eff. Jan. 1, 1981; Laws 1984, c. 286, § 3,

operative July 1, 1984; Laws 1988, c. 267, § 10, operative July 1, 1988; Laws 1989, c. 234, § 1, emerg. eff. May 12, 1989; Laws 1990, c. 340, § 12, eff. July 1, 1990; Laws 1991, c. 335, § 5, emerg. eff. June 15, 1991; Laws 1992, c. 390, § 4, emerg. eff. June 9, 1992; Laws 1995, c. 173, § 4, eff. July 1, 1995; Laws 2000, c. 377, § 2, eff. July 1, 2000; Laws 2001, c. 183, § 4, emerg. eff. May 2, 2001; Laws 2001, c. 414, § 3, eff. July 1, 2001; Laws 2003, c. 64, § 1, eff. July 1, 2003; Laws 2003, c. 486, § 1, eff. July 1, 2003; Laws 2004, c. 5, § 3, emerg. eff. March 1, 2004; Laws 2004, c. 434, § 1, eff. July 1, 2004; Laws 2019, c. 346, § 4, eff. July 1, 2019.
NOTE: Laws 1989, c. 341, § 2 repealed by Laws 1990, c. 337, § 26. Laws 1990, c. 337, § 5 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 2001, c. 128, § 1 repealed by Laws 2001, c. 414, § 14, eff. July 1, 2001. Laws 2003, c. 137, § 5 repealed by Laws 2004, c. 5, § 4, emerg. eff. March 1, 2004.

§11-50-113. Purposes of pension fund - Limitation on payments.

All the funds in the System shall be used only for the following purposes:

1. For investments as authorized by law;

2. For the payment of allowances to injured and disabled members of any participating municipality;

3. For the payment of pensions for long service to retired members of any participating municipality;

4. For the payment of a pension to any beneficiary of any member eligible for a pension;

5. For the payment of any professional services deemed necessary by the State Board;

6. For the payment of warrant deductions upon proper authorization given by the member to the Board from which the member or beneficiary is currently receiving retirement benefits for any insurance premium due an insurance organization for life, accident, and health insurance.

The System has no responsibility for the marketing, enrolling or administration of the products for which warrant deductions are authorized under this paragraph.

Approval of a warrant deduction for any insurance organization, line of coverage or policy shall not be construed as an assumption of liability, for the terms of the policy or the performance of the insurance organization by the Oklahoma Police Pension and Retirement System;

7. For the payment of membership dues in a statewide association limited to Oklahoma Police Pension and Retirement System members with a minimum membership of one thousand dues-paying members upon proper authorization given by the member; and

8. Any other purposes authorized by law.

Such payments in any event shall not exceed the limits provided in this article.
Added by Laws 1977, c. 256, § 50-113, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 18, eff. Jan. 1, 1981; Laws 1988, c. 321, § 17, operative July 1, 1988; Laws 1995, c. 162, § 1, emerg. eff. May 2, 1995; Laws 2007, c. 152, § 1, eff. July 1, 2007.

§11-50-114. Service pension to members of System - Amount - Eligibility - Delay of distribution - Death of member - Review of requests - Disability benefits in lieu of pensions - Health insurance payments.

A. The State Board is hereby authorized to pay out of funds in the System a monthly service pension to any member eligible as hereinafter provided, not exceeding in any event the amount of money in such funds and not exceeding in any event the accrued retirement benefit for such member, except as provided for herein. In order for a member to be eligible for such service pension the following requirements must be complied with:

1. The member's service with the police department for any participating municipality must have ceased; however, a member may be subsequently reemployed in the position of police chief pursuant to subsection C of Section 50-112 of this title;

2. The member must have reached the member's normal retirement date; and

3. The member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; provided, that should a retired member receive disability benefits as provided in this and other sections of this article, the time the retired member is receiving said disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from said disability retirement. It shall be necessary before said time shall be counted toward retirement that the retired member make the same contribution as the member would have otherwise made if on active service for the time the retired member was disabled.

B. Any member complying with all requirements of this article, who reaches normal retirement date, upon application, shall be retired at the accrued retirement benefit. When a member has served for the necessary number of years and is otherwise eligible, as provided in this article, if such member is discharged without cause by the participating municipality, the member shall be eligible for a pension.

C. Effective July 1, 1989, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member.

For distributions made for calendar years beginning on or after January 1, 2001 through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed on January 17, 2001, notwithstanding any provision of the System to the contrary. For distributions made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004, notwithstanding any provision of the System to the contrary. Effective January 1, 2009, with respect to the Oklahoma Police Deferred Option Plan, to the extent applicable, no minimum distribution is required for 2009 in accordance with Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as amended.

Effective September 8, 2009, notwithstanding anything to the contrary of the System, the System, which is a governmental plan (within the meaning of Section 414(d) of the Internal Revenue Code of 1986, as amended) is treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the System if the System complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

D. In the event of the death of any member who has been awarded a retirement benefit or is eligible therefor as provided in this section, such member's beneficiaries shall be paid such retirement benefit. The remaining portion of the member's retirement benefit shall be distributed to the beneficiaries at least as rapidly as under the method of distribution to the member. Effective March 1, 1997, if a member to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than zero (0), shall be paid to the member's estate.

E. The State Board may review and affirm a member's request for retirement benefits prior to the member's normal retirement date

provided that no retirement benefits are paid prior to the normal retirement date.

F. A member retired under the provisions of this article may apply to the State Board to have the member's retirement benefits set aside and may make application for disability benefits. Upon approval of the disability benefits, the member would become subject to all provisions of this article pertaining to disability retirement.

G. Upon the death of a retired member or a beneficiary, the benefit payment for the month in which the retired member or beneficiary died, if not previously paid, shall be made to the beneficiary of the member, which shall include a successor in interest for whom an affidavit is provided to the System in accordance with Section 393 of Title 58 of the Oklahoma Statutes, or to the member's or beneficiary's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member or beneficiary died.

H. If the requirements of Section 50-114.4 of this title are satisfied, a member who, by reason of attainment of normal retirement date or age, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly pension payment, after December 31, 2006, in accordance with Section 402(l) of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 50-114, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 19, eff. Jan. 1, 1981; Laws 1985, c. 221, § 6, emerg. eff. July 8, 1985; Laws 1988, c. 267, § 11, operative July 1, 1988; Laws 1993, c. 352, § 5, eff. July 1, 1993; Laws 1997, c. 363, § 2, emerg. eff. June 11, 1997; Laws 1998, c. 419, § 2, eff. July 1, 1998; Laws 1999, c. 257, § 2, eff. July 1, 1999; Laws 2000, c. 287, § 7, eff. July 1, 2000; Laws 2001, c. 183, § 5, emerg. eff. May 2, 2001; Laws 2003, c. 137, § 6, emerg. eff. April 25, 2003; Laws 2005, c. 137, § 2, emerg. eff. May 3, 2005; Laws 2007, c. 152, § 2, eff. July 1, 2007; Laws 2009, c. 169, § 2, emerg. eff. May 11, 2009; Laws 2010, c. 437, § 3, emerg. eff. June 9, 2010; Laws 2011, c. 140, § 1, emerg. eff. April 29, 2011; Laws 2019, c. 346, § 5, eff. July 1, 2019.

§11-50-114.1. Limitations on benefits and contribution under qualified plans of the Internal Revenue Code of 1986.

A. For limitation years prior to July 1, 2007, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, shall be computed in accordance with the applicable provisions of the System in effect at that time and, to the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except as provided below.

Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member from the System provided by employer contributions (including contributions picked up by the employer under Section 414(h) of the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of this section and subsequent guidance. The limitations of this section shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided below.

B. Except as provided below, effective for limitation years ending after December 31, 2001, any accrued retirement benefit payable to a member as an annual benefit as described below shall not exceed One Hundred Sixty Thousand Dollars ($160,000.00), automatically adjusted under Section 415(d) of the Internal Revenue Code of 1986, as amended, for increases in the cost of living, as prescribed by the Secretary of the Treasury or the Secretary's delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year. The automatic annual adjustment of the dollar limitation in this subsection under Section 415(d) of the Internal Revenue Code of 1986, as amended, shall apply to a member who has had a severance from employment.

1. The member's annual benefit is a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this section. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

2. No actuarial adjustment to the benefit shall be made for:

a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form,

b. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or

c. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

3. The determination of the annual benefit shall take into account Social Security supplements described in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended, and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c), of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

4. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with paragraph 5 or paragraph 6 of this subsection.

5. Benefit Forms Not Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 5 if the form of the member's benefit is either:

a. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse), or

b. an annuity that decreases during the life of the member merely because of:

(1) the death of the survivor annuitant (but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant), or

(2) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended).

c. Limitation Years Beginning Before July 1, 2007. For limitation years beginning before July 1, 2007, the

actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(1) the interest rate and the mortality table (or other tabular factor), each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form, and

(2) a five percent (5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.

d. Limitation Year Beginning On January 1, 2008. For the limitation year beginning on January 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity (if any) payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.

e. Limitation Years Beginning On or After July 1, 2008. For limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity (if any) payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul.

2007-67 (and subsequent guidance) for that annuity starting date.

6. Benefit Forms Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 6 if the form of the member's benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

a. Annuity Starting Date on or after January 1, 2009. If the annuity starting date of the member's form of benefit is in the period beginning on January 1, 2009, through June 30, 2009, or in a plan year beginning after June 30, 2009, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) as set forth in the most recent actuarial valuation referenced in subsection G of Section 50-105.4 of this title prior to September 1, 2011, and effective September 1, 2011, in paragraph 22 of Section 50-101 of this title, for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the applicable interest rate under Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, (and subsequent guidance), for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability

period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance),

divided by one and five one-hundredths (1.05).

b. Annuity Starting Date in the Period Beginning on July 1, 2008 through December 31, 2008. If the annuity starting date of the member's form of benefit is in the period beginning on July 1, 2008, through December 31, 2008, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the

fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

c. Annuity Starting Date in Plan Years Beginning in 2006 or 2007. If the annuity starting date of the member's form of benefit is in a Plan Year beginning in 2006 or 2007, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day

of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

(b) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

d. Annuity Starting Date in Plan Years Beginning in 2004 or 2005:

(1) If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form, and

(b) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

(2) If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the System, taking into account the limitations of this section, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(a) the interest rate and mortality table (or other tabular factor) each as set forth in

subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,

(b) (i) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

(ii) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and

(c) (i) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the System then adopted and in effect), and

(ii) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

C. If a member has less than ten (10) years of participation in the System and all predecessor municipal police pension and retirement systems, the dollar limitation otherwise applicable under subsection B of this section shall be multiplied by a fraction, the numerator of which is the number of the years of participation, or part thereof, in the System of the member, but never less than one (1), and the denominator of which is ten (10).

D. Adjustment of Dollar Limitation for Benefit Commencement Before Age Sixty-two (62) or After Age Sixty-five (65): Effective for benefits commencing in limitation years ending after December 31, 2001, the dollar limitation under subsection B of this section shall be adjusted if the annuity starting date of the member's benefit is before age sixty-two (62) or after age sixty-five (65). If the annuity starting date is before age sixty-two (62), the dollar limitation under subsection B of this section shall be adjusted under paragraph 1 of this subsection, as modified by paragraph 3 of this subsection, but subject to paragraph 4 of this subsection. If the annuity starting date is after age sixty-five (65), the dollar limitation under subsection B of this section shall be adjusted under paragraph 2 of this subsection, as modified by paragraph 3 of this subsection.

1. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-two (62):

a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title, or

(2) a five-percent interest rate assumption and the applicable mortality table as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

b. Limitation Years Beginning On or After July 1, 2007.

(1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-two (62) and the Age of Benefit Commencement.

(a) If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the

dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for the annuity starting date as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-two (62) and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year

beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under division (1) of subparagraph b of this paragraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the System at age sixty-two (62), both determined without applying the limitations of this section.

(3) Effective for limitation years commencing on or after January 1, 2014, notwithstanding any other provision of paragraph 1 of this subsection, the age-adjusted dollar limit applicable to a member shall not decrease on account of an increase in age or the performance of additional services.

2. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age Sixty-five (65):

a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title, or

(2) a five-percent interest rate assumption and the applicable mortality table as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

b. Limitation Years Beginning On or After July 1, 2007.

(1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-five (65) and the Age of Benefit Commencement.

(a) If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for the annuity starting date as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the

Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-five (65) and Age of Commencement. If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the lesser of the limitation determined under division (1) of subparagraph b of this paragraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the System at age sixty-five (65), both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the System at age sixty-five (65) is the annual amount of such annuity that would be payable under the System to a hypothetical member who is age sixty-five (65) and has the same accrued benefit as the member.

3. Notwithstanding the other requirements of this subsection, no adjustment shall be made to the dollar limitation under subsection B of this section to reflect the probability of a member's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if

benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the System does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the Internal Revenue Code of 1986, as amended, upon the member's death.

4. Notwithstanding any other provision to the contrary, for limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this subsection shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

E. Minimum Benefit Permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this System shall be deemed not to exceed the maximum permissible benefit if:

1. The retirement benefits payable for a limitation year under any form of benefit with respect to such member under this System and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by a participating municipality do not exceed Ten Thousand Dollars ($10,000.00) multiplied by a fraction:

a. the numerator of which is the member's number of credited years (or part thereof, but not less than one (1) year) of service (not to exceed ten (10) years) with the participating municipality, and

b. the denominator of which is ten (10); and

2. The participating municipality (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h) of the Internal Revenue Code of 1986, as amended, and accounts for postretirement medical benefits established under Section 419A(d)(1) of the Internal Revenue Code of 1986, as amended, are not considered a separate defined contribution plan).

F. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982,

as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

G. If a member purchases service credit under the System, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

1. Treating the accrued benefit derived from such contributions as an annual benefit under subsection B of this section; or

2. Treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

H. If a member repays to the System any amounts refunded from the System because of such member's prior termination or any other amount which qualifies as a repayment under Section 415(k)(3) of the Internal Revenue Code of 1986, as amended, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

I. For limitation years beginning on or after January 1, 1995, subsection C of this section, paragraph 1 of subsection D of this section, and the proration provided under subparagraphs a and b of paragraph 1 of subsection E of this section shall not apply to a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.

J. For distributions made in limitation years beginning on or after January 1, 2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, shall not apply.

K. The State Board is hereby authorized to revoke the special election previously made on June 19, 1991, under Section 415(b)(10) of the Internal Revenue Code of 1986, as amended.

L. All benefits payable from the Oklahoma Police Pension and Retirement System, including payments from the deferred option plans under Section 50-111.3 of this title, shall be paid from the general assets of the Fund pursuant to subsection B of Section 50-105.6 of this title.

Added by Laws 1988, c. 267, § 12, operative July 1, 1988. Amended by Laws 1991, c. 323, § 3, emerg. eff. June 12, 1991; Laws 1999, c. 257, § 3, eff. July 1, 1999; Laws 2000, c. 287, § 8, eff. July 1, 2000; Laws 2003, c. 137, § 7, emerg. eff. April 25, 2003; Laws 2004, c. 551, § 5, emerg. eff. June 9, 2004; Laws 2008, c. 177, § 5, eff. July 1, 2008; Laws 2009, c. 169, § 3, emerg. eff. May 11, 2009; Laws 2010, c. 437, § 4, emerg. eff. June 9, 2010; Laws 2011, c. 140, § 2, emerg. eff. April 29, 2011; Laws 2012, c. 53, § 3, emerg. eff. April 16, 2012; Laws 2012, c. 364, § 10; Laws 2013, c. 241, § 2, emerg. eff.

May 13, 2013; Laws 2014, c. 44, § 3, emerg. eff. April 15, 2014; Laws 2018, c. 20, § 3, eff. Nov. 1, 2018.

§11-50-114.2. Direct rollover distributions.

A. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the Oklahoma Police Pension and Retirement System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the Oklahoma Police Pension and Retirement Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income. A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be transferred only:

a. from January 1, 2002, through December 31, 2006:
   (1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or
   (2) in a direct trustee-to-trustee transfer, to a qualified trust which is part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and

b. on or after January 1, 2007:
   (1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) in a direct trustee-to-trustee transfer, to a qualified trust or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

Effective for distributions after December 31, 2007, such after-tax portion may also be directly transferred to a Roth individual retirement account or annuity, described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended.

Notwithstanding the foregoing, effective January 1, 2009, to the extent applicable, if all or a portion of a distribution from the Oklahoma Police Deferred Option Plan during 2009 is treated as an Eligible Rollover Distribution pursuant to Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, but would not be so treated if the minimum distribution requirements under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, had applied during 2009, such distribution shall not be treated as an Eligible Rollover Distribution for purposes of Section 401(a)(31), Section 3405(c) or Section 402(f) of the Internal Revenue Code of 1986, as amended;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective for distributions after December 31, 2007, an Eligible Retirement Plan includes a Roth IRA, subject to any limitations under Section 408A(c) of the Internal Revenue Code of 1986, as amended. Effective for distributions after December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA in accordance

with Section 408(p)(1)(B) of the Internal Revenue Code of 1986, as amended, for purposes of a rollover contribution to such SIMPLE IRA, but only if such rollover contribution is made after December 18, 2015, and only if such rollover contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in subsection B of Section 50-124 of this title, are Distributees with regard to the interest of the spouse or the former spouse. A Distributee also includes the member's nonspouse designated beneficiary (and certain trusts described in Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, who may elect any portion of a payment to be made in a Direct Rollover only to an individual retirement account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, (IRA) (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth IRA, that is established on behalf of such nonspouse designated beneficiary for the purpose of receiving the distribution and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required minimum distribution rules of Section 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA; and

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days before and, effective for years beginning after December 31, 2006, not more than one hundred eighty (180) days before the date of distribution, the Distributee (other than a nonspouse designated beneficiary prior to July 1, 2010) must be provided with a notice of rights which satisfies Section 402(f) of the Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The Oklahoma Police Pension and Retirement Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

D. For distributions made after December 31, 2006, but prior to July 1, 2010, a distribution with respect to a nonspouse designated beneficiary shall be made in accordance with Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395. Effective for plan years beginning after December 31, 2009, a distribution with respect to a nonspouse designated beneficiary shall be subject to Sections 401(a)(31), 402(f), and 3405(c) of the Internal Revenue Code of 1986, as amended.

E. Effective for distributions after December 31, 2014, for purposes of determining the portion of a disbursement of benefits from the System to a Distributee that is not includible in gross income under Section 72 of the Internal Revenue Code of 1986, as amended, the guidance under I.R.S. Notice 2014-54 shall be followed. Added by Laws 1999, c. 257, § 4, eff. July 1, 1999. Amended by Laws 2000, c. 287, § 9, eff. July 1, 2000; Laws 2003, c. 137, § 8, emerg. eff. April 25, 2003; Laws 2007, c. 152, § 3, eff. July 1, 2007; Laws 2008, c. 177, § 6, eff. July 1, 2008; Laws 2010, c. 437, § 5, emerg. eff. June 9, 2010; Laws 2011, c. 140, § 3, emerg. eff. April 29, 2011; Laws 2012, c. 53, § 4, emerg. eff. April 16, 2012; Laws 2015, c. 23, § 2, emerg. eff. April 7, 2015; Laws 2017, c. 132, § 1, emerg. eff. May 1, 2017; Laws 2018, c. 20, § 4, eff. Nov. 1, 2018.

§11-50-114.3. Trustee-to-trustee transfer - Treatment of trust - Rules.

A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member and who is not the surviving spouse of the member, may elect, in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended, to have a direct trustee-to-trustee transfer of any portion of such beneficiary's distribution from the System made only to an individual retirement account or individual retirement annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA) (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA),

that is established on behalf of such designated individual for the purpose of receiving the distribution. If such transfer is made, then:

1. For distributions made after December 31, 2006, but prior to July 1, 2010, the transfer is treated as an eligible rollover distribution for purposes of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. For plan years beginning after December 31, 2009, the transfer is treated as an eligible rollover distribution;

2. The transferee IRA is treated as an inherited individual retirement account or an inherited individual retirement annuity (within the meaning of Section 408(d)(3)(C) of the Internal Revenue Code of 1986, as amended), and must be titled in the name of the deceased member, for the benefit of the beneficiary; and

3. The required minimum distribution rules of Section 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA.

B. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

C. The State Board shall promulgate such rules as are necessary to implement the provisions of this section.

Added by Laws 2007, c. 152, § 4, eff. July 1, 2007. Amended by Laws 2009, c. 169, § 4, emerg. eff. May 11, 2009; Laws 2010, c. 437, § 6, emerg. eff. June 9, 2010; Laws 2011, c. 140, § 4, emerg. eff. April 29, 2011; Laws 2012, c. 53, § 5, emerg. eff. April 16, 2012; Laws 2017, c. 132, § 2, emerg. eff. May 1, 2017; Laws 2018, c. 20, § 5, eff. Nov. 1, 2018.

§11-50-114.4. Direct payments for qualified health insurance premiums - Definitions - Rules.

A. A member who is an eligible retired public safety officer and who wishes to have direct payments made toward the member's qualified health insurance premiums from the member's monthly disability benefit or monthly pension payment must make a written election in accordance with Section 402(l) of the Internal Revenue Code of 1986, as amended, on the form provided by the System, as follows:

1. The election must be made after the member separates from service as a public safety officer with the member's participating municipality;

2. The election shall only apply to distributions from the System after December 31, 2006, and to amounts not yet distributed to the eligible retired public safety officer;

3. Direct payments for an eligible retired public safety officer's qualified health insurance premiums can only be made from the member's monthly disability benefit or monthly pension payment from the System and cannot be made from the Deferred Option Plan; and

4. The aggregate amount of the exclusion from an eligible retired public safety officer's gross income is Three Thousand Dollars ($3,000.00) per calendar year.

B. As used in this section:

1. A "public safety officer" is a member serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, chaplain, or as a member of a rescue squad or ambulance crew;

2. An "eligible retired public safety officer" is a member who, by reason of disability or attainment of normal retirement date or age, is separated from service as a public safety officer with the member's participating municipality; and

3. "Qualified health insurance premiums" are for coverage for the eligible retired public safety officer, the eligible retired public safety officer's spouse, and dependents, as defined in Section 152 of the Internal Revenue Code of 1986, as amended, by an accident or health plan or a qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1986, as amended. The health plan does not have to be sponsored by the eligible retired public safety officer's former participating municipality.

C. The State Board shall promulgate such rules as are necessary to implement the provisions of this section.

Added by Laws 2007, c. 152, § 5, eff. July 1, 2007. Amended by Laws 2013, c. 241, § 3, emerg. eff. May 13, 2013.

§11-50-115. Disability benefit - Eligibility - Award - Evidence of disability - Continuance of salary - Exposure to hazardous substances - Health insurance payments.

A. The State Board is authorized to pay a disability benefit to a member of the System or a pension to the beneficiaries of such member eligible as hereinafter provided, not exceeding the accrued retirement benefit of the member, except as otherwise provided in this article. Such disability benefit shall be payable immediately upon determination of eligibility. Any preexisting condition identified at the time of any initial or subsequent membership shall be used to offset the percentage of impairment to the whole person in determining any disability benefit. Once the initial disability benefit has been awarded by the Board on the basis of the percentage of impairment to the whole person, the member shall have no further recourse to increase the awarded percentage of impairment.

B. In order for any member to be eligible for any disability benefit, or the member's beneficiaries to be eligible for a pension, the member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; and the State Board must find:

1. That the member incurred a permanent total disability or a permanent partial disability or died while in, and in consequence of, the performance of duty as an officer; or

2. That such member has served ten (10) years and incurred a permanent total disability or a permanent partial disability or has died from any cause.

C. In the event of the death of any member who has been awarded a disability benefit or is eligible therefor as provided in this article, the member's beneficiary shall be paid the benefit.

D. As of the date of determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial or permanent and total as was incurred while in, and in consequence of, the performance or duty as an officer, the member shall be awarded a disability benefit on the basis of the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment," as provided in the following table:

1% to 49% impairment to whole person =	50% of the normal disability benefit
50% to 74% impairment to whole person =	75% of the normal disability benefit
75% to 100% impairment to whole person =	100% of the normal disability benefit.

E. If the participating municipality denies a disabled member the option of continuing employment instead of retiring on a disability pension, then the burden of proof rests with the participating municipality to show cause to the State Board that there is no position as a sworn officer within the police department of that municipality which the member can fill.

F. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and total and that the member has completed ten (10) years of credited service and is disabled by any cause, the member shall receive a disability benefit on the basis of the member's accrued retirement benefit. A permanent and total impairment equates to one hundred percent (100%) of accrued retirement benefit.

G. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and that the member has completed ten (10) years of credited service as a member and is disabled from any cause, the member shall be awarded a disability benefit on the basis of the member's years of credited service as a member and the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment", on the basis of the following table:

1% to 24% impaired = 25% of accrued retirement benefit
25% to 49% impaired = 50% of accrued retirement benefit
50% to 74% impaired = 75% of accrued retirement benefit
75% to 99% impaired = 90% of accrued retirement benefit.

H. Before making a finding as to the disability of a member, the State Board shall require that, if the member is able, the member shall make a certificate as to the disability which shall be subscribed and sworn to by the member. It shall also require a certificate as to such disability to be made by some physician licensed to practice in this state as selected by the State Board. The State Board may require other evidence of disability before making the disability benefit. The salary of any such member shall continue while the member is so necessarily confined to such hospital bed or home and necessarily requires medical care or professional nursing on account of such sickness or disability for a period of not more than six (6) months, after which said period the other provisions of this article may apply. The State Board, in making disability benefits, shall act upon the written request of the member or without such request, if it deem it for the good of the police department. Any disability benefits shall cease when the member receiving same shall be restored to active service at a salary not less than three-fourths (3/4) of the member's average monthly salary.

I. Any member of a police department of any municipality who, in the line of duty, has been exposed to hazardous substances, including but not limited to chemicals used in the manufacture of a controlled dangerous substance or chemicals resulting from the manufacture of a controlled dangerous substance, or to blood-borne pathogens and who is later disabled from a condition that was the result of such exposure and that was not revealed by the physical examination passed by the member upon entry into the System shall be presumed to have incurred such disability while performing the officer's duties unless the contrary is shown by competent evidence. The presumption created by this subsection shall have no application whatever to any workers' compensation claim or claims, and it shall not be applied or be relied upon in any way in workers' compensation proceedings. All compensation or benefits due to any member pursuant to the presumption created by this subsection shall be paid solely by the system.

J. If the requirements of Section 50-114.4 of this title are satisfied, a member who, by reason of disability, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit, after December 31, 2006, in accordance with Section 402(l) of the Internal Revenue Code of 1986, as amended. Added by Laws 1977, c. 256, § 50-115, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 20, eff. Jan. 1, 1981; Laws 1985, c. 221, § 7,

emerg. eff. July 8, 1985; Laws 1995, c. 173, § 5, eff. July 1, 1995; Laws 1999, c. 167, § 2, eff. July 1, 1999; Laws 2002, c. 340, § 2, eff. July 1, 2002; Laws 2004, c. 551, § 6, emerg. eff. June 9, 2004; Laws 2005, c. 137, § 3, emerg. eff. May 3, 2005; Laws 2007, c. 152, § 6, eff. July 1, 2007; Laws 2009, c. 169, § 5, emerg. eff. May 11, 2009; Laws 2018, c. 20, § 6, eff. Nov. 1, 2018.

§11-50-115.2. Death benefit.

Upon the death of an active or retired member, the Oklahoma Police Pension and Retirement System shall pay to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member, the sum of Four Thousand Dollars ($4,000.00) as a death benefit for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars ($5,000.00).

Added by Laws 1987, c. 236, § 156, emerg. eff. July 20, 1987. Amended by Laws 1999, c. 167, § 3, eff. July 1, 1999; Laws 2002, c. 352, § 2, eff. July 1, 2002; Laws 2014, c. 44, § 4, emerg. eff. April 15, 2014.

§11-50-116.1. Sickness or temporary disability - Continuance of salary.

Whenever any member of the police department of any municipality is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as such member, notwithstanding the provisions of Sections 11 and 12 of Title 85 of the Oklahoma Statutes, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than six (6) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of twelve (12) months, after which said period the provisions for permanent total or permanent partial disability benefits of the Oklahoma Police Pension and Retirement System shall apply. Should a member receiving a salary under this section be eligible to receive, and should the salary of the member under this section exceed any temporary disability benefit paid to the member under Section 1 et seq. of Title 85 of the Oklahoma Statutes, the member shall transfer said temporary disability benefits under Section 1 et seq. of Title 85 of the Oklahoma Statutes to the municipality while the member is sick or temporarily disabled.

Added by Laws 1988, c. 267, § 13, operative July 1, 1988. Amended by Laws 1993, c. 352, § 6, eff. July 1, 1993.

§11-50-117. Payment of pension to beneficiary of member - Amount - Eligibility - Limitations - Commencement and cessation of benefits.

A. The State Board is authorized to pay a pension to the beneficiary of any member where requirements for eligibility for such pension are met as provided in this subsection. The pension shall be in an amount as the State Board shall provide not exceeding the accrued retirement benefit or normal disability benefit. Before any beneficiary of a member shall be entitled to any pension the member must have complied with any agreement as to contributions by the member and other members to the System where said agreement has been made as provided by this article, and the State Board must find that:

1. The member lost his or her life while in, and in consequence of, the performance of the member's duty and through no negligence on the member's part; and

2. The member left a beneficiary.

B. The State Board is authorized to pay a pension to the beneficiary of any member where requirements for eligibility for such pension are met as provided in this subsection. The member's beneficiary shall receive the member's accrued retirement benefit. Before any beneficiary of a member shall be entitled to any pension the member must have complied with any agreement as to contributions by the member and other members to the System where said agreement has been made as provided by this article, and the State Board must find that:

1. The member completed ten (10) years of credited service and died from any cause; and

2. The member left a beneficiary.

C. If such finding is made, a pension shall be allowed, limited as provided in this article. The pension shall commence to the beneficiary of the member within one (1) year of the death of the member and, except as otherwise provided in this section, shall be payable over the life of the beneficiary. If the beneficiary is a child of the member, the pension payments shall cease automatically when the child reaches eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education.

If the beneficiary is a surviving spouse of a member who remarried prior to June 7, 1993, and was a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Police Pension and Retirement System. The Oklahoma Police Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Police Pension and Retirement System, the surviving spouse shall be entitled

to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Police Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of this title, or Section 2-306 of Title 47 as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

Added by Laws 1977, c. 256, § 50-117, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 23, eff. Jan. 1, 1981; Laws 1985, c. 221, § 8, emerg. eff. July 8, 1985; Laws 1988, c. 267, § 14, operative July 1, 1988; Laws 1994, c. 84, § 4, eff. July 1, 1994; Laws 1994, c. 351, § 3, eff. July 1, 1994; Laws 2004, c. 551, § 7, emerg. eff. June 9, 2004.

§11-50-118. Member retired for disability - Physical examination - Emergency duty.

Any member retired for disability as authorized in this article may be summoned before the State Board at any time to submit himself or herself to the State Board or some physician licensed by this state and selected by the State Board, to be examined as to the member's fitness for duty, and if found to be able to return to duty by the State Board, the member shall not be entitled to any further money from the funds of the System. All such members so retired as authorized under this article shall report, upon order of the State Board, to some physician licensed by this state and designated by the State Board, for an examination as to the member's fitness for duty, and if at such time the member be found fit for duty by the State Board, the member shall not be entitled to any further money from the System. In case of great public emergency any such member retired for disability may be assigned to and shall perform such duty as the Chief of the Police Department of the municipality may direct and such member shall not be entitled to any pay from the municipality for the duty so performed.

Laws 1977, c. 256, § 50-118, eff. July 1, 1978; Laws 1980, c. 356, § 24, eff. Jan. 1, 1981.

§11-50-119. Forfeiture of benefits - Grounds.

When any person who shall receive any benefits from any funds of the System as authorized by this article shall fail to report to duty as required by this article, unless excused by the State Board, or shall disobey the requirements of the State Board made under this

article, in respect to said examination for duty or otherwise, then the State Board shall order that such benefits as may have been granted to such member shall immediately cease and such member shall receive no further benefits as authorized to be paid under this article unless or until, if possible, such member shall have met the requirements made by the State Board.
Added by Laws 1977, c. 256, § 50-119, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 25, eff. Jan. 1, 1981.

§11-50-121. Ordinances to accomplish purpose of article.

The governing body of any participating municipality is authorized to pass any ordinances specifically mentioned in this article, and such other ordinances as shall be necessary to accomplish the purposes provided in this article, provided that no ordinance shall conflict with the provisions of this article.
Laws 1977, c. 256, § 50-121, eff. July 1, 1978; Laws 1980, c. 356, § 27, eff. Jan. 1, 1981.

§11-50-122. Computation of pensions - Leaves of absence - Military leaves of absence or credits for military service exempted.

A. All pensions shall be computed on a monthly basis with a majority of the month counting as a full month.

B. Authorized leaves of absence may be granted by a participating municipality to a member. These authorized leaves of absence shall not constitute a deprivation of pension rights and service accumulations up to the point of the leave. Accrual time may continue when the member returns to work if that absence is not longer than three hundred sixty-five (365) days. In no case shall a member on authorized leave of absence withdraw any funds from the System. Effective August 5, 1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993.

C. Nothing in subsection B of this section shall be construed as affecting any provision for military leaves of absence or credits for military service in the Oklahoma Statutes.
Added by Laws 1977, c. 256, § 50-122, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 28, eff. Jan. 1, 1981; Laws 1985, c. 221, § 9, emerg. eff. July 8, 1985; Laws 1999, c. 257, § 5, eff. July 1, 1999.

§11-50-123. Discharge of member - Board of review - Grounds - Appeal.

A. The governing body of every participating municipality, except municipalities which have provided for a civil service board of review or merit board, or have negotiated a contract covering discharge with their members to hear such appeals, shall establish a board of review to hear appeals concerning the discharge of members. The board of review shall consist of the mayor, ex officio, who shall

be a voting member, and four members to be appointed by the governing body of the participating municipality, as follows:

1. Two police officers retired or active from the police department of the municipality; and

2. One attorney and one licensed physician residing in the municipality.

Whenever persons meeting the qualifications of this subsection are unavailable for appointments, the mayor shall in lieu thereof make the appointments from the governing body of the municipality, except that neither the Chief of Police nor any person having direct appointive authority for police personnel shall be eligible for appointment to said board. Appointive members of the board shall serve at the pleasure of the appointing official.

B. No member may be discharged except for cause. Any member who is discharged may appeal to the board of review herein provided. Appeals from decisions of said board of review may be taken in the manner provided for in this article, provided the provisions of this section relating to the board of review and discharge shall not apply to any municipality which has heretofore or hereinafter established by its charter civil service or merit system pertaining to the appointment and discharge of members and an independent board or commission having authority to hear actions involving the discharge of members.

Laws 1977, c. 256, § 50-123, eff. July 1, 1978; Laws 1980, c. 356, § 29, eff. Jan. 1, 1981.

§11-50-124. Exemption of System funds from legal process - Assignment or transfer void - Exception of qualified domestic orders - Offset for offenses involving the System.

A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Police Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

C. Notwithstanding any other provision of law to the contrary, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 50-124, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 30, eff. Jan. 1, 1981; Laws 1993, c. 322, § 5, emerg. eff. June 7, 1993; Laws 1998, c. 198, § 3, eff. Nov. 1, 1998; Laws 1999, c. 257, § 6, eff. July 1, 1999; Laws 2000, c. 287, § 10, eff. July 1, 2000; Laws 2004, c. 551, § 8, emerg. eff. June 9, 2004.

§11-50-125. Repealed by Laws 1996, c. 191, § 24, emerg. eff. May 16, 1996.

§11-50-127. Limitation on withdrawal from System.

A member shall not be permitted to withdraw from the System while employed as an officer or while undergoing police training in a participating municipality.

Added by Laws 1977, c. 256, § 50-127, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 33, eff. Jan. 1, 1981; Laws 1985, c. 221, § 10, emerg. eff. July 8, 1985; Laws 1995, c. 173, § 6, eff. July 1, 1995.

§11-50-128. Credit for military service.

A. Any member who has heretofore left the Police Department qualifying under this article to enter the military service of the United States during World War II and who returned to said department on or before July 1, 1947, or the Korean conflict and who returned to said department on or before January 1, 1956, shall receive credit for such time in military service without having made contribution to the System; and any member who has heretofore left, or hereafter may leave said department because of involuntary conscription into the military services of the United States at any time and who returns to said department within ninety (90) days after the member's release

from such involuntary service shall receive credit for such time in said military service on the Police Department without having made contribution to the System only for that period that is involuntary; voluntary enlistments and voluntary extensions of military service being herewith specifically excluded for retirement credit.

B. A member who began participation in the System prior to July 1, 2003, and who retires on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Police Pension and Retirement System. All members who initially begin participation with the System after June 30, 2003, may acquire prior military service credit for a maximum of five (5) years of such service credit upon payment of the actuarial cost of such service in the manner prescribed by and subject to all of the requirements of Section 50-111.4 of this title. For members of the System hired or rehired on or after July 1, 2003, if the military service credit authorized by this subsection is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:
    a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
    b. September 16, 1940, to December 7, 1941, as a member of the 45th Division,
    c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
    d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
    e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
        (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
        (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or

f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

C. An eligible member pursuant to subsection B of this section shall include only those persons who shall have served during the times or in the areas prescribed thereunder and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection B of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection B of this section shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States.

D. Effective December 12, 1994, a leave of absence on account of a period of "qualified military service" in the uniformed services of the United States (within the meaning of Section 414(u)(5) of the Internal Revenue Code of 1986), followed by a return to the service of the participating municipality within ninety (90) days after the completion of the period of service, shall constitute credited service. Notwithstanding any provision herein to the contrary:

1. Contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). The municipality's contributions to the System for a member covered by

USERRA are due when such a member makes up his or her contributions that were missed due to his or her qualified military service; and

2. Effective January 1, 2007, if any member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended), the survivors of the member are entitled to any additional benefits other than benefit accruals relating to the period of qualified military service provided under the System had the member resumed and then terminated employment on account of death.

Added by Laws 1977, c. 256, § 50-128, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 34, eff. Jan. 1, 1981; Laws 1998, c. 192, § 2, eff. July 1, 1998; Laws 1999, c. 257, § 7, eff. July 1, 1999; Laws 2003, c. 51, § 7, eff. July 1, 2003; Laws 2003, c. 406, § 2, eff. July 1, 2003; Laws 2004, c. 302, § 2, emerg. eff. May 13, 2004; Laws 2005, c. 137, § 4, emerg. eff. May 3, 2005; Laws 2009, c. 169, § 6, emerg. eff. May 11, 2009; Laws 2010, c. 437, § 7, emerg. eff. June 9, 2010.

§11-50-129. Appeals.

Notwithstanding any other provision of law, any aggrieved party may appeal the decision of the State Board in granting, denying or adjusting a pension or retirement benefit, and such appeal shall be made in the district court of Oklahoma County. The appeal shall be commenced within thirty (30) days after the date of the State Board's decision. Notice of the intent to appeal shall be given by the aggrieved party to the State Board within ten (10) days after the date of the State Board's decision. The proceedings, practice, and standards of review in the district court shall be governed by the Administrative Procedures Act except as otherwise provided in this section. The district court may affirm, reverse or modify the decision of the State Board. The court may also remand the cause with specific instructions to the State Board. The court costs and expense of preparation of any transcript shall be paid by the losing party. All other legal actions or proceedings against the Oklahoma Police Pension and Retirement Board, the Oklahoma Police Pension and Retirement System or its employees or agents shall be brought in the district court of Oklahoma County.

Added by Laws 1977, c. 256, § 50-129, eff. July 1, 1978. Amended by Laws 1980, c. 356, § 35, eff. Jan. 1, 1981; Laws 2003, c. 51, § 8, eff. July 1, 2003.

§11-50-130. Police Pension and Retirement Fund.

There is hereby established a fund to be designated as the Oklahoma Police Pension and Retirement Fund. All employee and employer contributions shall be deposited in the Fund and may be invested as provided in this article.

Laws 1980, c. 356, § 36, eff. Jan. 1, 1981.

§11-50-131. Transfer of assets to State Board.

Any municipality having a Police Pension and Retirement Fund prior to January 1, 1981, shall transfer all assets of such fund to the State Board on January 1, 1981. Assets shall be transferred in the form of cash, negotiable securities and such other specific assets as permitted by the State Board.

Added by Laws 1980, c. 356, § 37, eff. Jan. 1, 1981. Amended by Laws 1985, c. 221, § 11, emerg. eff. July 8, 1985.

§11-50-132. Assets of Fund - Contents - Right to assets - Valuation.

The assets of the Fund shall consist of such assets and the income therefrom, including such contributions as shall from time to time be made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's assets.

Upon termination or partial termination of the System, or a permanent discontinuance of contributions, the benefits accrued up to the date of termination by the affected members and their beneficiaries, respectively, shall be nonforfeitable.

Added by Laws 1980, c. 356, § 38, eff. Jan. 1, 1981. Amended by Laws 1985, c. 221, § 12, emerg. eff. July 8, 1985; Laws 2000, c. 287, §

11, eff. July 1, 2000; Laws 2001, c. 183, § 6, emerg. eff. May 2, 2001.

§11-50-133. Costs and expenses of operation, administration and management of system fund - Equipment and supplies.

All costs and expenses incurred in the operation, administration and management of the System shall be paid by the State Board from the monies of the fund, including but not limited to commissions or other costs resulting from the purchase, sale or other transfer of assets.

The State Board is authorized to purchase such equipment and supplies as it deems necessary for the efficient operation, administration and management of the System. Payment for such equipment and supplies shall be made from the operating account of the System. Such payments shall be considered an expense of the System and the equipment and supplies so purchased shall be an asset of the System.

Amended by Laws 1983, c. 268, § 1, operative July 1, 1983.

§11-50-134. Operation, administration and management of System - Responsibilities.

A. The State Board shall be responsible for the operation, administration and management of the System.

1. In order to carry out the responsibilities imposed upon them by law, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board. The fees, commissions, salaries and other compensation of such advisors, consultants, agents or employees shall be paid by the State Board from the Fund.

2. Notwithstanding any statute, regulation or rule to the contrary, the State Board may obtain from any participating municipality and the Council on Law Enforcement Education and Training information for the purpose of the System performing an audit to determine any person's eligibility for membership in the System pursuant to Section 50-112 of this title. The State Board also may obtain from any participating municipality information for the purpose of the System performing an audit of such participating municipality to ensure compliance with the System's statutes or rules, including, but not limited to, information with respect to member compensation necessary to determine the amounts that should be

included in or excluded from a member's paid base salary and the accuracy of amounts upon which member contributions are made. Any information received by the State Board pursuant to this paragraph shall be kept confidential by the System to the extent required by any applicable statute, regulation or rule.

B. The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the participating municipalities;

2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;

3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;

5. Process all claims for payment of benefits or expenses for approval by the State Board;

6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations; and

7. Demand on behalf of the State Board information under paragraph 2 of subsection A of this section.

Added by Laws 1980, c. 356, § 40, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 18, operative July 1, 1988; Laws 2003, c. 137, § 9, emerg. eff. April 25, 2003; Laws 2004, c. 551, § 9, emerg. eff. June 9, 2004; Laws 2017, c. 132, § 3, emerg. eff. May 1, 2017.

§11-50-134.1. Confidentiality of records.

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the Oklahoma Police Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to court order.

Added by Laws 1993, c. 352, § 7, eff. July 1, 1993. Amended by Laws 2000, c. 287, § 12, eff. July 1, 2000.

§11-50-135. Forfeiture of Motor Fuel Excise Tax revenues.

Any participating municipality that does not comply with the contribution requirements of this act shall forfeit that proportionate share of the Motor Fuel Excise Tax which is received through the Oklahoma Tax Commission. It shall be the duty of the Oklahoma Tax Commission to withhold these funds until such time as the Attorney General shall certify to the Oklahoma Tax Commission, upon proof presented, that the provisions of this act are being complied with by the participating municipality, that the forfeiture of the Motor Fuel Excise Tax is terminated. It shall be the duty of the Attorney General to enforce the provisions of this section.
Laws 1980, c. 356, § 41, eff. Jan. 1, 1981.

§11-50-136. Increase in pension benefits.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 1989, shall receive a five percent (5%) increase in said benefits on July 1, 1990.

B. Any increase in benefits a person is eligible to recover or has received during calendar year 1989 and 1990 pursuant to repealed Section 50-120 of this title, shall be used to offset the increase in benefits provided in subsection A of this section.
Added by Laws 1985, c. 221, § 13, emerg. eff. July 8, 1985. Amended by Laws 1986, c. 186, § 1, operative July 1, 1986. Amended by Laws 1990, c. 340, § 13, eff. July 1, 1990.

§11-50-136.1. Increase in benefits - Repealed Section 50-120.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 1993, shall receive a two and one-half percent (2 1/2%) increase in said benefits on July 1, 1994.

B. Notwithstanding the provisions of Section 50-111.3 of this title, any increase in benefits a person is eligible to receive or has received during calendar year 1990 and any subsequent calendar year pursuant to repealed Section 50-120 of this title shall be used to offset the increase in benefits provided in subsection A of this section.
Added by Laws 1988, c. 267, § 15, operative July 1, 1988. Amended by Laws 1994, c. 383, § 4, eff. July 1, 1994.

§11-50-136.2. Additional retirement benefit.

A. Except as provided by subsection B of this section, the Oklahoma Police Pension and Retirement System shall pay to its retirees, who retire not later than June 30, 1997, or their beneficiaries, from assets of the retirement system, an additional amount, for the fiscal year ending June 30, 1998, based upon the number of years of credited service upon which the retirement benefit of the member was computed as follows:

1. One Hundred Fifty Dollars ($150.00) for at least ten (10), but no more than fourteen (14) years of service;

2. Three Hundred Dollars ($300.00) for at least fifteen (15), but no more than nineteen (19) years of service;

3. Four Hundred Fifty Dollars ($450.00) for at least twenty (20), but no more than twenty-four (24) years of service; and

4. Six Hundred Dollars ($600.00) for twenty-five (25) or more years of service.

B. The Oklahoma Police Pension and Retirement System shall pay to retirees, who retire not later than June 30, 1997, with a disability retirement benefit and having less than ten (10) years of service, the sum of One Hundred Fifty Dollars ($150.00).

C. For purposes of subsection A or B of this section, months of credited service in excess of a whole number of years shall be disregarded for purposes of determining the applicable payment amount.

D. The payment authorized by this section shall be distributed not later than August 1, 1997.

E. The payment authorized by this section shall not be a recurring benefit and shall only be made for the fiscal year ending June 30, 1998, and for no other fiscal year.

F. If a retiree has multiple beneficiaries, the amount prescribed by subsection A of this section shall be divided equally among the beneficiaries on a per capita basis.

Added by Laws 1997, c. 384, § 20, eff. July 1, 1997.

§11-50-136.3. Benefit adjustment - Restoration of Initial COLA Benefit.

A. For purposes of this section the following definitions shall apply:

1. "Initial COLA Benefit Date" means the later of the member's date of benefit commencement or January 1, 1981. This date is used in the definition of Initial COLA Benefit and Target COLA Benefit;

2. "Initial COLA Benefit" means the accrued retirement benefit which will be used as the base benefit for determining the Target COLA Benefit. The Initial COLA Benefit equals the benefit in payment status as of the Initial COLA Benefit Date. Furthermore, this benefit will reflect adjustment for military service credits, if any, granted after the Initial COLA Benefit Date;

3. "CPI-U" means the Consumer Price Index for all urban consumers for all goods and services, as published by the Bureau of Labor Statistics, U.S. Department of Labor. This is used as a measure of price inflation for the development of the Target COLA Benefit defined below; and

4. "Target COLA Benefit" is the Initial COLA Benefit adjusted to reflect price inflation as measured by CPI-U. The Target COLA Benefit is calculated for each eligible member to equal the member's

Initial COLA Benefit multiplied by a ratio of (A) divided by (B) as follows:

(A) is the CPI-U as of July 1, 1997.

(B) is the CPI-U as of July 1 of the calendar year of the Initial COLA Benefit Date.

B. The Board shall, effective July 1, 1998, implement a benefit adjustment, to increase, if necessary, the retirement benefit for any person receiving benefits from the System as of June 30, 1997. This benefit adjustment is intended to restore one hundred percent (100%) of the loss of the Initial COLA Benefit, if any, due to price inflation, as measured by CPI-U. The benefit adjustment shall be one hundred percent (100%) of the amount by which the Target COLA Benefit is in excess, if any, of the June 1998 retirement benefit. Persons who retired after December 31, 1996 and before July 1, 1997, shall receive a benefit increase based on one-half (1/2) of the CPI-U change for the period beginning January 1, 1997 and before July 1, 1997.

C. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 1998, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 1998, c. 317, § 3, eff. July 1, 1998.

§11-50-136.4. Benefit increase - Offset.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 1999, who continues to receive benefits on or after July 1, 2000, shall receive a four and seven-tenths percent (4.7%) increase in said benefits on July 1, 2000.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 1998, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 2000, c. 377, § 3, eff. July 1, 2000.

§11-50-136.5. Increase in benefits – Amount - Offset.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 2001, who continues to receive benefits on or after July 1, 2002, shall receive a five percent (5%) increase in said benefits on July 1, 2002.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 2000, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 2002, c. 394, § 2, eff. July 1, 2002.

§11-50-136.6. Police Pension and Retirement System - Increase in benefits - Offset.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a four-percent increase in said benefits beginning in July 2004.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 2002, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 2004, c. 536, § 5, eff. July 1, 2004.

§11-50-136.7. Increase in benefits - July 1, 2006 - Offset.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a four-percent increase in said benefits beginning in July 2006.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 2004, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 2006, 2nd Ex. Sess., c. 46, § 6, eff. July 1, 2006.

§11-50-136.8. Increase in benefits - July 1, 2008 - Offset.

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 2007, who continues to receive benefits on or after July 1, 2008, shall receive a four-percent increase in said benefits on July 1, 2008.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 2006, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 2008, c. 415, § 2, eff. July 1, 2008.

§11-51-101. Public policy of fire and police arbitration law.

A. The protection of the public health, safety and welfare demands that the permanent members of any paid fire department or police department in any municipality not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not, however, require the denial to such employees of other well-recognized rights of labor such as the right to organize, to be represented by a collective bargaining representative of their choice and the right to bargain collectively concerning wages, hours and other terms and conditions of employment; and such

employees shall also have the right to refrain from any and all such activities.

B. It is declared to be the public policy of this state to accord to the permanent members of any paid fire department or police department in any municipality all of the rights of labor, other than the right to strike or to engage in any work stoppage or slowdown. Nothing in this article shall constitute a grant of the right to strike to fire fighters or police officers of any municipality and such strikes are hereby prohibited. Notwithstanding the provisions of any other law, any person holding such a position who, by concerted action with others and without the lawful approval of his superior, willfully absents himself from his position or abstains in whole or in part from the full, faithful and proper performance of his duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he did violate the provisions of this article. The request shall be filed in writing with the officer or body having the power to remove or discipline such employee within ten (10) days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request, the officer or body shall within ten (10) days after the receipt of such request commence a proceeding for the determination of whether the provisions of this article have been violated by the public employee, in accordance with the law and regulations appropriate to a proceeding to remove the public employee. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within ten (10) days following the conclusion of said hearing. If the employee involved is held to have violated this article and his employment terminated or other discipline imposed, he shall have the right of review to the district court having jurisdiction of the parties, within thirty (30) days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.

C. It is declared to be the public policy of the State of Oklahoma that no person shall be discharged from or denied employment as a member of any paid fire department or police department in any municipality of this state by reason of membership or nonmembership in, or the payment or nonpayment of any dues, fees or other charges to, an organization of such members for collective bargaining purposes as herein contemplated.

D. The establishment of this method of arbitration shall not, however, in any way whatever, be deemed to be a recognition by the state of compulsory arbitration as a superior method of settling

labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative procedure for settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.
Laws 1977, c. 256, § 51-101, eff. July 1, 1978.

§11-51-102. Definitions.

As used in this article, unless the context requires a different interpretation:

1. "Fire fighters and police officers" shall mean the permanent paid members of any fire department or police department in any municipality within the State of Oklahoma but shall not include the chief of police and an administrative assistant and the chief of the fire department and an administrative assistant. The administrative assistant shall be that person so designated by the chief of the police department. "Police officers" as used herein shall be those persons as defined in Section 50-101 of this title.

2. "Corporate authorities" means the proper officials, singly or collectively, within any municipality whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of fire fighters or police officers, whether they be the mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission, or by whatever other name the same may be designated, or any combination thereof. It is not the intent of this paragraph that the above-named officials shall in any way be exclusive or limiting.

3. "Strike" shall mean the concerted failure to report for duty, the willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. Nothing contained in this article shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same does not interfere with the full, faithful and proper performance of the duties of employment.

4. "Bargaining agent" shall mean any lawful association, fraternal organization, labor organization, federation or council having as one of its purposes the improvement of wages, hours and other conditions of employment among employees of fire and police departments.

5. "Collective bargaining" shall mean the performance of the mutual obligation of the municipal employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings appropriately related to the budget-making process; to confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder; and to execute a written contract incorporating any agreement reached if requested by either party. Such obligation shall not, however, compel either party to agree to a proposal or require the making of a concession.

6. "Unfair labor practices" for the purpose of this article shall be deemed to include but not be limited to the following acts and conduct:

6a. Action by corporate authorities:

(1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;

(2) dominating or interfering with the formation, existence or administration of any employee organization or bargaining agent;

(3) interfering in any manner whatsoever with the process of selection by fire fighters or police officers of their respective bargaining agents or attempting to influence, coerce or intimidate individuals in such selection;

(4) discharging or otherwise disciplining or discriminating against a police officer or fire fighter because he has signed or filed any affidavit, petition or complaint or has given any information or testimony under this article or because of his election to be represented by the bargaining agent;

(5) refusing to bargain collectively or discuss grievances in good faith with the designated bargaining agent with respect to any issue coming within the purview of this article; or

(6) instituting or attempting to institute a lockout.

6b. Action by bargaining agent:

(1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;

(2) interfering with or attempting to coerce the corporate authorities in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances; or

(3) refusing to bargain collectively or discuss grievances in good faith with the proper corporate

authorities with respect to any issue coming within the purview of this article.

7. "Board" shall mean the Public Employees Relations Board.

Laws 1977, c. 256, § 51-102, eff. July 1, 1978.

§11-51-103. Collective bargaining rights - Petition - Hearing - Elections.

A. Firefighters and police officers in any municipality shall have the separate right to bargain collectively with their municipality and to be represented by a bargaining agent in such collective bargaining with respect to wages, salaries, hours, rates of pay, grievances, working conditions and all other terms and conditions of employment.

B. Whenever, conformable to regulations that may be prescribed by the Public Employees Relations Board, herein created, a petition is filed by:

1. A labor organization alleging that thirty percent (30%) of the firefighters or police officers in a municipality:

a. wish to be represented for collective bargaining by an exclusive employee representative, or

b. assert that the designated exclusive employee representative is no longer the representative of the majority of employees in the unit; or

2. The employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive employee representative in an appropriate unit;

the Board shall investigate the facts alleged therein and if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. The Board may also certify a labor organization as an exclusive employee representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices.

C. Only those labor organizations which have been designated by more than ten percent (10%) of the employees in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearing by stipulation for the purpose of a consent election, in conformity with the rules and regulations of the Board.

D. In order to assure to firefighters and police officers of any municipality the fullest freedom in exercising the rights guaranteed by this article, the Board shall decide in each case before it in which the issue is raised the unit appropriate for the purposes of collective bargaining, and shall consider such factors as community of interest, wages, hours and other working conditions of

the employees involved, the history of collective bargaining, and the desires of the employees.

E. An election shall not be directed in any bargaining unit or in any subdivision thereof within which, in the preceding twelve-month period, a valid election has been held. The Board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, but a majority of all votes cast are for representation by some labor organization, a run-off election shall be conducted. A labor organization which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive employee representative.
Laws 1977, c. 256, § 51-103, eff. July 1, 1978.

§11-51-104. Public Employees Relations Board.

A. There is hereby re-created, to continue until July 1, 2016, in accordance with the provisions of the Oklahoma Sunset Law, the Public Employees Relations Board, which shall be composed of five (5) members to be appointed or selected as follows:

1. One appointed by the Governor shall be an impartial appointment and designated as Chairman;

2. Two appointed by the President Pro Tempore of the State Senate, one of whom shall be an impartial appointment and one of whom shall be a representative from the labor industry chosen from a list of four nominees to be submitted jointly by an Oklahoma organization the primary purpose of which is to provide services to members who are municipal police officers, which shall provide two nominees, and by an Oklahoma organization the primary purpose of which is to provide services to members who are municipal firefighters, which shall provide two nominees; and

3. Two appointed by the Speaker of the Oklahoma House of Representatives, one of whom shall be an impartial appointment and one of whom shall be a representative of a municipality to be selected from a list of four nominees submitted by a statewide organization the membership of which consists primarily of incorporated cities and towns within Oklahoma.

B. The Chairman shall be appointed for a term of five (5) years, commencing from July 1, 1972. The other members shall be appointed for terms of one (1) and three (3) years, respectively, from July 1, 1972, but their successors shall be appointed for terms of three (3) years. No member shall serve on the Board for more than two terms. No impartial member appointed by either the President Pro Tempore of the Oklahoma State Senate or by the Speaker of the Oklahoma House of Representatives shall, within two (2) years of being appointed to the Board or while serving on the Board, have served or worked in a capacity as an advocate, be a member or receive compensation from a labor union group association or its subordinate affiliates or have

served or worked in a capacity as an advocate, appointed or elected official of or received compensation from a municipality or municipalities.

C. Three members of the Board shall constitute a quorum. Any individual chosen to fill a vacancy on the Board shall be appointed only for the unexpired term. The Chairman and members of the Board shall not receive a salary but shall receive compensation in lieu of expenses in the amount of Fifty Dollars ($50.00) per day for any meeting or the conduct of official duties, whether acting singly or collectively.

D. To accomplish the objectives and to perform the duties prescribed by this article, the Board may subpoena witnesses, issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence of any matter under inquiry, and administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to any person, the district court of the county in which the investigations or the public hearings are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board and produce evidence about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

E. Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this article may be served personally, by registered mail, or by leaving a copy at the principal office of the person required to be served. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service, and a returned post office receipt, when registered or certified mail is used, is proof of service.

F. The Board shall adopt, promulgate, amend, or rescind such rules as it deems necessary to carry out the provisions of this article. Public hearings shall be held by the Board on any proposed rule of general applicability designed to implement, interpret, or prescribe policy, procedure or practice requirements under the provisions of this article and on any proposed change to such existing rule. Reasonable notice shall be given prior to such hearings, which shall include the time, place, and nature of such hearing and the terms or substance of the proposed rule or the changes to such rule.

Added by Laws 1977, c. 256, § 51-104, eff. July 1, 1978. Amended by Laws 1983, c. 146, § 1, operative July 1, 1983; Laws 1985, c. 178, § 11, operative July 1, 1985; Laws 1986, c. 301, § 18, operative July 1, 1986; Laws 1989, c. 140, § 1, eff. July 1, 1989; Laws 1995, c. 13, § 1; Laws 2001, c. 7, § 1; Laws 2007, c. 23, § 1; Laws 2008, c. 16, § 1; Laws 2012, c. 90, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 7, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 58, § 1 repealed by Laws 2013, c. 15, § 8, emerg. eff. April 8, 2013.

§11-51-104a. Employees - Duties and compensation - Operating expenditures.

The Office of Management and Enterprise Services, in cooperation with the Chairman of the Public Employees Relations Board, is authorized to appoint and fix the duties and compensation of employees necessary to perform the responsibilities imposed upon the Public Employees Relations Board by law. The Office of Management and Enterprise Services is authorized to initiate or accept and process claims for personal services, consulting services, supplies, equipment, and other operating expenditures essential to the accomplishment of the duties imposed upon the Public Employees Relations Board by law.

Added by Laws 1983, c. 306, § 6, operative July 1, 1983. Amended by Laws 2012, c. 304, § 51.

§11-51-104b. Unfair Labor practices - Prevention.

A. The Public Employees Relations Board is empowered, as hereinafter provided, to prevent any person, including bargaining agent and corporate authorities, from engaging in any unfair labor practice as defined herein.

B. Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board, at a place therein fixed, not less than five (5) days after the serving of said complaint. The person so complained of shall have the right to file an answer and to appear and give testimony at the time and place fixed in the complaint. In the discretion of the Board, any other person may be allowed to intervene in such proceeding.

C. If upon the preponderance of the testimony taken the Board shall be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person served in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint.

D. The Board, or any interested party, shall have the power to petition the district court, wherein the unfair labor practice in question occurred, for the enforcement of such order and for appropriate temporary relief of restraining order.
Added by Laws 1985, c. 148, § 1.

§11-51-105. Meet and confer - Agreements.

It shall be the obligation of the municipality, acting through its corporate authorities, to meet at reasonable times and confer in good faith with the representatives of the fire fighters or police officers within ten (10) days after receipt of written notice from said bargaining agent requesting a meeting for collective bargaining purposes. The obligation shall include the duty to cause any collective bargaining agreement resulting from negotiations to be reduced to a written agreement, the term of which shall not exceed one (1) year; provided, any such agreement shall continue from year to year and be automatically extended for one-year terms unless written notice of request for bargaining is given by either the municipal authorities or the bargaining agent of the fire fighters or police officers at least thirty (30) days before the anniversary date of such negotiated agreement. Within ten (10) days of receipt of such notice by the other party, a conference shall be scheduled for the purposes of collective bargaining, and until a new agreement is reached, the currently existing written agreement shall not expire and shall continue in full force and effect.
Amended by Laws 1985, c. 148, § 2.

§11-51-106. Arbitration.

In the event that the bargaining agent and the corporate authorities are unable, within thirty (30) days from and including the date of the first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to arbitration, upon request of either party.
Laws 1977, c. 256, § 51-106, eff. July 1, 1978.

§11-51-107. Arbitrators - Selection.

Within five (5) days from the date of the request for arbitration referred to in Section 51-106 of this title, the bargaining agent and the corporate authorities shall each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The two arbitrators so selected and named shall, within five (5) days from and after the expiration of the five-day period hereinabove mentioned, agree upon and select a third arbitrator. If, on the expiration of the period allowed therefor, the arbitrators are unable to agree upon the selection of a third arbitrator, the bargaining agent and the corporate authorities shall request the Federal Mediation and

Conciliation Service to provide a list of five arbitrators. Within five (5) days after receipt of the list of arbitrators from the Federal Mediation and Conciliation Service, the two arbitrators already selected shall alternately strike the name of one arbitrator from the list of five until one name remains, with the employer making the first strike from said list. The third arbitrator, whether selected as a result of an agreement between the two arbitrators previously selected or selected from the list provided by the Federal Mediation and Conciliation Service, shall act as chairman of the arbitration board.
Laws 1977, c. 256, § 51-107, eff. July 1, 1978.

§11-51-108. Hearing procedures - Special municipal elections - Effective date of agreements.

A. 1. The arbitration board acting through its chair shall call a hearing to be held within ten (10) days after the date of the appointment of the chair and shall, acting through its chair, give at least seven (7) days' notice in writing to each of the other two arbitrators, the bargaining agent and the corporate authorities of the time and place of such hearing.

2. At least seven (7) days before the date of the hearing the corporate authorities and the bargaining agent shall submit to each other and to the arbitration board members a written arbitration statement listing all contract terms which the parties have resolved and all contract issues which are unresolved. Each arbitration statement shall also include a final offer on each unresolved issue. The terms and offers contained in the arbitration statements shall be known collectively as each party's last best offer.

3. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination. A hearing shall be concluded within twenty (20) days from the time of commencement.

4. Within seven (7) days after the conclusion of the hearing, a majority of the arbitration board members shall select one of the two last best offers as the contract of the parties. The criteria to be used by the board in determining which offer to select shall be limited to paragraphs 1 through 5 of Section 51-109 of this title. The arbitration board may not modify, add to or delete from the last best offer of either party. Written notice of the selection decision shall be mailed or delivered to the bargaining agent and the corporate authorities.

B. If the city's last best offer is not selected by the arbitration board, that party may submit the offers which the parties submitted to the arbitration board to the voters of the municipality for their selection by requesting a special election for that purpose. The request for an election must be filed with the clerk of the municipality within ten (10) days of the date of the written decision of the arbitration board. Written notice of the filing of the request shall be given to the bargaining agent. If a request for an election is not filed in a timely manner, the board's selection decision shall be final, and the last best offer it selected shall constitute the agreement of the parties.

C. Upon receiving a request for an election pursuant to the provisions of this section, the clerk shall notify the mayor and governing body of the request. Within ten (10) days of such notification the municipal authorities shall call for a special election. The election shall be governed by the state laws on special municipal elections. Only residents of the municipality shall be eligible to vote in said election. The ballot shall inform the voters that they must choose either the last best offer of the bargaining agent or the last best offer of the corporate authorities. Within twenty (20) days of the date of the decision to call for the election, the municipal authorities and the bargaining agent shall agree on a ballot. If no agreement is reached within that time, each party shall present a proposed ballot to the arbitration board. The parties shall present their ballot to the board no later than seven (7) days after the aforementioned twenty-day period. The board shall consider the proposed ballots and shall select one or the other within seven (7) days of the date of receipt of the parties' proposed ballots. The last best offer receiving a majority of the votes shall become the agreement of the parties.

D. Concerning issues relating to money, such ballot shall clearly state the total dollar amount of the offer from the corporate authority and the total dollar amount of the offer from the bargaining agent. Such ballot shall also disclose the percentage of increase or decrease both offers have over or under the last contract of the two parties.

E. Agreements which are reached as a result of selection by the arbitration board or by election shall be effective on the first day of the fiscal year involved regardless of the date of the final selection.

Added by Laws 1977, c. 256, § 51-108, eff. July 1, 1978. Amended by Laws 1985, c. 148, § 3; Laws 1994, c. 139, § 1; Laws 2000, c. 358, § 1, eff. July 1, 2000; Laws 2004, c. 126, § 1, eff. Nov. 1, 2004.

§11-51-109. Factors to be considered.

The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of

all submitted disputes between the firefighters or police officers and the corporate authorities. The factors, among others, to be given weight by the arbitrators in arriving at a decision shall include:

1. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the local operating area involved;

2. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved;

3. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with wage rates or hourly conditions of employment of fire departments or police departments in cities, towns or other political subdivisions of comparable size and economic status both within and without the State of Oklahoma;

4. Interest and welfare of the public and revenues available to the municipality; or

5. Comparison of peculiarities of employment in regard to other trades or professions, including specifically:

a. hazards of employment,
b. physical qualifications,
c. educational qualifications,
d. mental qualifications, and
e. job training and skills.

Laws 1977, c. 256, § 51-109, eff. July 1, 1978.

§11-51-110. Fees and expenses.

Fees and necessary expenses of the arbitrator selected by the bargaining agent and the arbitrator selected by the corporate authorities shall be borne by the bargaining agent and the corporate authorities respectively. The reasonable fees and necessary expenses of the third arbitrator shall be borne equally by the bargaining agent and corporate authorities.

Laws 1977, c. 256, § 51-110, eff. July 1, 1978.

§11-51-111. Agreements - Contents.

Any agreement actually negotiated between the bargaining agent and the corporate authorities either before or within thirty (30) days after arbitration shall constitute the collective bargaining contract governing fire fighters or police officers in the municipality for the period stated therein; provided that such period

shall not exceed one (1) year. Any collective bargaining agreement negotiated under the terms and provisions of this article shall specifically provide that the fire fighters or police officers who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for such provision being the right to a resolution of disputed questions. All rules, regulations, fiscal procedures, working conditions, departmental practices and manner of conducting the operation and administration of fire departments and police departments currently in effect on the effective date of any negotiated agreement shall be deemed a part of said agreement unless and except as modified or changed by the specific terms of such agreement. Every such agreement shall contain a clause establishing arbitration procedures for the immediate and speedy resolution and determination of any dispute which may arise involving the interpretation or application of any of the provisions of such agreement or the actions of any of the parties thereunder. In the absence of such negotiated procedure such dispute may be submitted to arbitration in accordance with the provisions of Sections 51-107 through 51-110 of this title, except that the arbitration board shall be convened within ten (10) days after demand therefor by the bargaining agent upon the corporate authority or authorities. In such case the arbitration board's determination shall be final.
Amended by Laws 1985, c. 148, § 4.

§11-51-112. Matters requiring appropriation of moneys - Notice.

Whenever wages, rates of pay or any other matters requiring appropriation of moneys by any municipality are included as matters of collective bargaining conducted under the provisions of this article, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authorities at least one hundred twenty (120) days before the last day on which moneys can be appropriated by the municipality to cover the contract period which is the subject of the collective bargaining procedure.
Laws 1977, c. 256, § 51-112, eff. July 1, 1978.

§11-51-113. Penalties.

It shall be unlawful for any collective bargaining representative or member of a paid fire department or police department to strike or engage in any work stoppage; and it shall further be unlawful for any official, executive, administrator, manager, or member of a governing body exercising the authority to fix and determine the salaries, hours of work, and employment conditions of any paid fire or police department of a municipality in this state to fail to bargain in good faith in accordance with the provisions of this article. Any person or persons guilty of violating the provisions of this article shall

be fined not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) for such offense, and each day during which such violation occurs or continues shall constitute a separate offense, and any such conviction shall be grounds for immediate dismissal from public employment, for any persons so employed.
Laws 1977, c. 256, § 51-113, eff. July 1, 1978.

§11-51-200. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-201. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-202. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-203. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-204. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-205. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-206. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-207. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-208. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-209. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-210. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-211. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-212. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-213. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-214. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-215. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-216. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-217. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-218. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-219. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-51-220. Repealed by Laws 2011, c. 131, § 1, eff. Nov. 1, 2011.

§11-52-101. Purpose.

The provisions of this article are hereby declared to be necessary for the protection of public funds, records and property, and to protect the public welfare of the State of Oklahoma.
Laws 1977, c. 256, § 52-101, eff. July 1, 1978.

§11-52-102. Definitions.

As used in Sections 52-101 through 52-107 of this title:

1. "Clerk", "treasurer" and "finance officer" mean any person who is at any time responsible for the clerical or financial records, or the keeping or making of any of them, of any city or town government coming within the provisions of this article;

2. "Committee" means the Advisory Committee to the municipal clerks and treasurers training division of the Oklahoma Department of Career and Technology Education; and

3. "Division" means the municipal clerks and treasurers training division of the Oklahoma Department of Career and Technology Education.
Added by Laws 1977, c. 256, § 52-102, eff. July 1, 1978. Amended by Laws 1986, c. 258, § 14, operative July 1, 1986; Laws 2001, c. 33, § 13, eff. July 1, 2001.

§11-52-103. Advisory committee created - Membership - Personnel - Travel reimbursement.

A. There is hereby created the Advisory Committee to the municipal clerks and treasurers division of the Oklahoma Department of Career and Technology Education which shall consist of five (5) members appointed by the Director of the Oklahoma Department of Career and Technology Education. The Director shall appoint one member he deems appropriate; one member from a list of three persons submitted by the Oklahoma Municipal League; one member from a list of three persons submitted by the Oklahoma Chapter of the Municipal Finance Officers Association; one member from a list of three persons submitted by the Oklahoma Chapter of the Municipal Treasurers Association; and one member from a list of three persons submitted by the Oklahoma Municipal Clerks, Treasurers and Finance Officers Association. Terms of office shall be for three (3) years, and shall be made in the manner provided in this section. The nominees submitted for appointment by the organizations herein enumerated shall be officers or employees of cities and towns.

B. The existing Commission members shall serve to the end of their terms of office as members of the Advisory Committee. Thereafter, appointments shall be made as provided for by law. The Committee shall elect from among its members a chairman and shall not meet more than six (6) days in any one (1) fiscal year.

C. Personnel employed by the Commission on June 30, 1986, shall become employees of the Oklahoma Department of Career and Technology Education on July 1, 1986, without change in status as to duties and compensation, including accrual of leave, and eligibility for longevity payments and other benefits of employment, except as otherwise provided by law.

D. Members of the Committee shall receive no salary or other compensation for their services but shall be reimbursed for travel expense pursuant to the State Travel Reimbursement Act.

Added by Laws 1977, c. 256, § 52-103, eff. July 1, 1978. Amended by Laws 1981, c. 80, § 1, emerg. eff. April 20, 1981; Laws 1985, c. 178, § 12, operative July 1, 1985; Laws 1986, c. 258, § 15, operative July 1, 1986; Laws 2001, c. 33, § 14, eff. July 1, 2001.

§11-52-104. Powers and duties.

In addition to other powers and duties conferred upon it by law, the Oklahoma Department of Career and Technology Education shall:

1. Employ such personnel, incur such expenses, make contracts and purchase such personal property as may be necessary for the purposes of conducting training programs, including but not limited to itinerant training programs and special on-the-job training programs;

2. Accept such grants, appropriation or other monies or services as may be available for training, research, development or demonstration purposes in training aimed to increase the efficiency of clerks, treasurers and finance officers and of persons under their direction; and

3. Develop such manuals and prescribe such procedures and tests as may be necessary for the fulfillment of the purposes of this article, to determine criteria and to grade for the successful completion of training.

Added by Laws 1977, c. 256, § 52-104, eff. July 1, 1978. Amended by Laws 1986, c. 258, § 16, operative July 1, 1986; Laws 2001, c. 33, § 15, eff. July 1, 2001.

§11-52-104.1. Study to increase efficiency.

The Committee shall study and recommend such requirements and do all other things as it may deem necessary in the development, administration and operation of training programs to increase the efficiency of municipal clerks, treasurers and finance officers.

Added by Laws 1986, c. 258, § 17, operative July 1, 1986.

§11-52-105. Annual certificate - Renewals - Fee.

Upon payment of the fee prescribed by the division, an annual certificate shall be issued to any person, not less than eighteen (18) years of age and of good moral character, who has successfully completed the training provided for each year. Said certificate

shall expire on June 30 next following its issuance and may be renewed from year to year upon completion of the yearly training program and payment of the fee. The division may refuse to renew such certificate upon failure of an applicant during the year to complete the training program offered or approved by it unless waived by action of the division. Each application for a certificate or renewal shall be accompanied by a payment of the prescribed fee.
Laws 1977, c. 256, § 52-105, eff. July 1, 1978; Laws 1986, c. 258, § 18, operative July 1, 1986; Laws 1992, c. 59, § 1, eff. July 1, 1992.

§11-52-107. Clerks' and Treasurers' Training Fund abolished.

Effective November 15, 1986, the "Clerks' and Treasurers' Training Fund" is abolished. All monies received to the credit of said fund shall be deposited to the State Career-Technology Fund in the State Treasury.
Added by Laws 1977, c. 256, § 52-107, eff. July 1, 1978. Amended by Laws 1986, c. 258, § 21, operative July 1, 1986; Laws 2001, c. 33, § 16, eff. July 1, 2001.

§11-55-103. Municipal ordinances regulating amateur radio antenna, support structures.

A. As used in this section:

1. "Amateur radio" means the use of amateur radio and amateur satellite radio frequencies and services by qualified and federally authorized persons of any age who are interested in radio technique without pecuniary interest;

2. "Antenna" means an array of wires, tubing, or the like used for the transmission and reception of radio waves; and

3. "Antenna support structure" means a structure or framework that is designed to elevate an antenna above the ground for the purpose of increasing the effective communications range and reliability of an amateur radio station. Amateur radio antenna support structures are removable by design and therefore are a removable structure for assessment purposes.

B. A municipal ordinance regulating amateur radio antenna or amateur radio antenna support structures shall:

1. Comply with the requirements of 47 C.F.R., Section 97.15(b), as amended from time to time;

2. Allow for the erection of an amateur radio antenna or an amateur radio antenna support structure at a height and dimension sufficient to reasonably accommodate amateur radio service communications, and shall only constitute the minimum practicable regulation necessary to accomplish the intent of this section; and

3. Require that, upon denial of an application for approval of an amateur radio antenna or amateur radio antenna support structure, the authority denying the application state the reasons for the

denial and on appeal bear the burden of proving that the actions of the authority are consistent with this section.
Added by Laws 2007, c. 193, § 3, eff. Nov. 1, 2007. Amended by Laws 2013, c. 126, § 1, eff. Nov. 1, 2013.

§11-56-101. Short title - Municipal Campaign Finance and Financial Disclosure Act.

Sections 11 through 20 of this act shall be the provisions of the Local Government Campaign Finance and Financial Disclosure Act applicable to municipalities and shall be known as the "Municipal Campaign Finance and Financial Disclosure Act".
Added by Laws 2014, c. 313, § 11, eff. Jan. 1, 2015.

§11-56-102. Definitions.

A. Definitions of terms used in the Municipal Campaign Finance and Financial Disclosure Act shall be the same as those terms are defined in Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution, unless otherwise provided herein.

B. As used in the Municipal Campaign Finance and Financial Disclosure Act:

1. "Campaign committee" means a committee which may be composed of one or more persons the purpose of which is to support the election of a specific candidate to municipal office, whose name as it will appear on the ballot shall appear in the name of the committee;

2. "Municipal office" means any elective municipal office for which Declarations of Candidacy are filed with the secretary of the county election board as required by Sections 16-109 and 16-110 of Title 11 of the Oklahoma Statutes; and

3. "Municipal political committee" means any committee composed of one or more persons whose purpose includes the election or defeat of one or more candidates for municipal office but which is not required to register with the Ethics Commission or the Federal Election Commission.
Added by Laws 2014, c. 313, § 12, eff. Jan. 1, 2015.

§11-56-103. Applicability.

A. The Municipal Campaign Finance and Financial Disclosure Act shall apply only to municipalities with a population of more than ten thousand (10,000) according to the most recent Federal Decennial Census and a general fund expenditure budget in excess of Ten Million Dollars ($10,000,000.00) in the fiscal year in which the municipal elections are held.

B. A municipality described in subsection A of this section may enact a comprehensive code of campaign finance and personal financial disclosure ordinances, including provisions for enforcement thereof,

in which case the Municipal Campaign Finance and Financial Disclosure Act shall not apply to the municipality. Any municipality enacting such a code shall file a notice of its action with the Ethics Commission, which shall have no enforcement responsibilities under the code.
Added by Laws 2014, c. 313, § 13, eff. Jan. 1, 2015. Amended by Laws 2015, c. 334, § 1.

§11-56-104. Campaign committee organization statements.
Each campaign committee shall file a statement of organization with the municipal clerk subject to the same requirements as set forth for candidate committees for state office required to file statements of organization with the Ethics Commission under Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution, including but not limited to time for filing and contents.
Added by Laws 2014, c. 313, § 14, eff. Jan. 1, 2015.

§11-56-105. Municipal political committee organization statements.
Every municipal political committee shall file a statement of organization with the municipal clerk subject to the same requirements as set forth for political committees required to file statements of organization with the Ethics Commission under Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution, including but not limited to time for filing and contents.
Added by Laws 2014, c. 313, § 15, eff. Jan. 1, 2015.

§11-56-106. Contributions and expenditures reports.
Every campaign committee and every municipal political committee shall file a report of contributions and expenditures with the municipal clerk subject to the same requirements as set forth for candidate committees and political action committees, respectively, required to file reports of contributions and expenditures with the Ethics Commission under Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution, including but not limited to time for filing and contents.
Added by Laws 2014, c. 313, § 16, eff. Jan. 1, 2015.

§11-56-107. Organization statements and contribution and expenditure reports - Public records.
Statements of organization and reports of contributions and expenditures required to be filed with the municipal clerk under the Municipal Campaign Finance and Financial Disclosure Act shall be public records. The municipal clerk shall maintain statements of organization and reports of contributions and expenditures for four (4) years after the date on which they are filed, if not posted on

the municipality's website as provided herein, at which time the documents may be destroyed or retained subject to the discretion of the municipal clerk. If the municipality in which the statements of organization and reports of contributions and expenditures are filed maintains an Internet website, the municipal clerk may post on the website copies of statements of organization and reports of contributions and expenditures.
Added by Laws 2014, c. 313, § 17, eff. Jan. 1, 2015.

§11-56-108. Financial interest statements.

All candidates for municipal office and all elected municipal officers shall be required to file a statement of financial interests with the municipal clerk subject to the same requirements as set forth for candidates for state office required to file statements of financial interests with the Ethics Commission under Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution, including but not limited to time for filing and contents.
Added by Laws 2014, c. 313, § 18, eff. Jan. 1, 2015.

§11-56-109. Financial interest statements - Public records.

Statements of financial interests required to be filed with the municipal clerk under the Municipal Campaign Finance and Financial Disclosure Act shall be public records. The municipal clerk shall maintain statements of financial interests for four (4) years after the date on which they are filed, if not posted on the municipality's website as provided herein, at which time the documents may be destroyed or retained subject to the discretion of the municipal clerk. If the municipality in which the statements of financial interests are filed maintains an Internet website, the municipal clerk may post on the website copies of statements of financial interests.
Added by Laws 2014, c. 313, § 19, eff. Jan. 1, 2015.

§11-56-110. Enforcement.

The Municipal Campaign Finance and Financial Disclosure Act shall be enforced by the Ethics Commission in the same manner as Rules of the Ethics Commission promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution are enforced, including but not limited to acceptance of complaints, civil prosecutions, settlement agreements and any other compliance practices or requirements. Complaints may be received by the Ethics Commission alleging filing of statements or reports required to be filed under the Municipal Campaign Finance and Financial Disclosure Act later than the prescribed time for filing. Such complaints shall be in the same form as other complaints. Upon receipt of such complaints of late filing, the Ethics Commission shall investigate whether the

allegation or allegations are true and, if so, shall assess a late filing penalty of One Hundred Dollars ($100.00) per day, not to exceed a maximum of One Thousand Dollars ($1,000.00) for the filing of any statement or report. If the Ethics Commission determines the allegation or allegations are not true, it shall take no further action. Persons assessed a late filing fee may protest the assessment subject to provisions of the Administrative Procedures Act.
Added by Laws 2014, c. 313, § 20, eff. Jan. 1, 2015.