

THE VILLAGE CITY CODE

CHAPTER 12

MISCELLANEOUS PROVISIONS AND OFFENSES

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ARTICLE I. IN GENERAL

**Sec. 12-1. Aiding and abetting.**

It shall be unlawful for any person to knowingly aid, abet, or assist, directly or indirectly, any other person in the commission of an offense.

(Code 1976, § 10-1-2)

State law reference--Aiding and abetting, 21 O.S. §§ 171, 172.

**Sec. 12-2. Penalty for violations.**

Any person who violates any section of Chapter 12, unless otherwise provided herein, shall be punished according to a Class A Offense as provided in section 1-9 of the Code.

(Ord. No. 382, § 1, 5-19-87)

Cross reference--Penalty for violation of Article VI, § 12-140.

**Secs. 12-3--12-15. Reserved.**

Cross reference--Motor vehicles and traffic, Ch. 13.

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**ARTICLE II. OFFENSES AGAINST PUBLIC AUTHORITY**

**Sec. 12-16. Failure to appear in court or pay fine.**

Any person who has been:

(a) Issued a citation or complaint for violation of any ordinance who fails to appear in municipal court on the date and time set in the citation or complaint; or

(b) Ordered or directed to return to appear in municipal court on the date and time set by the court and fails to appear; or

(c) Ordered or directed by the municipal court to pay or satisfy a fine by the date and time set by the court and fails to pay or satisfy the fine is guilty of a Class A offense.

(Code 1976, §§ 10-17-1, 10-17-2, 15-16-1, 15-16-2; Ord. No. 347, §1, 7-3-84; Ord. No. 392, § 1, 9-1-87)

Cross-reference--Penalty for Class A violations, § 1-9.

**Sec. 12-17. Resisting or obstructing city officers or employees.**

Any person who willfully delays or obstructs any public officer in the discharge or attempt to discharge any duty of his office shall be guilty of a Class A Offense.

(Code 1976, § 10-2-1(a), (b))

State law reference--Obstructing officers, 21, O.S. § 540.

**Sec. 12-18. False information to city officers or employees.**

No person shall give false information to a city officer or employee who has lawfully stopped him for violation of any ordinance of this Code or law of this state.

(Code 1976, § 10-2-1(1))

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### **Sec. 12-19. Fraud.**

It is unlawful for any person knowingly to make any material misrepresentation to any officer, employee or agency of the city government in any official application to, or official dealing or negotiation with, such officer or agency.

(Code 1976, § 10-16-2)

### **Sec. 12-20. Perjury.**

It is unlawful for any person to commit perjury before any tribunal or officer of the city.

(Code 1976, § 10-16-2)

State law reference--Perjury, 21 O.S. § 491 et seq.

### **Sec. 12-21. Escape from custody.**

No person shall:

(1) Remove or aid in the removal of any prisoner from custody except by legal process; or

(2) Break or attempt to break from custody after having been arrested and taken into custody.

(Code 1976, § 10-2-1(f), (g))

State law reference--Escapes from prison, etc., 21 O.S. § 431 et seq.

### **Sec. 12-22. Unauthorized deliveries to prisoners.**

No person shall deliver any article or thing to any person under arrest and in custody without the consent and permission of the city officer or employee who has such prisoner in his charge and custody.

(Code 1976, § 10-2-1(e))

State law reference--Carrying into prisons things to aid escape, 21 O.S. § 438.

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### **Sec. 12-23. Impersonation of city officers and employees.**

No person shall impersonate an officer or employee of the city falsely by any kind of representation, pretense, insignia, sound, clothing, or conduct.

(Code 1976, § 10-2-1(d))

State law reference--Impersonation of police, 21 O.S. §§ 263, 264, 1533.

### **Sec. 12-24. Refusal to aid police.**

No person shall refuse when in his presence to aid a police officer in making an arrest if the officer so requests.

(Code 1976, § 10-2-1(c))

State law reference--Similar provisions, 21 O.S. § 538.

### **Sec. 12-25. Fleeing from police.**

No person shall flee from any police officer after having been notified by him of his identity and intention to arrest the person addressed. It shall be a defense under this section that the officer failed to reasonably identify himself or his purpose.

(Code 1976, § 10-2-1(h))

### **Sec. 12-26. Acts against Police Dog or Police Horse.**

(a) No person shall willfully torture, torment, beat, mutilate, injure, disable, or otherwise mistreat a police dog or police horse owned, or the service of which is employed, by The Village Police Department.

(b) No person shall willfully interfere with the lawful performance of any police dog or police horse.

(c) Any person who is convicted of violating any provision of this section shall be guilty of Class A Offense, punishable by the imposition of a fine not exceeding seven hundred and fifty (\$750.00) dollars, or by imprisonment in the county jail not exceeding sixty (60) days, or by both such fine and imprisonment.

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State law reference: O.S. Title 21, §649.1

(Ord No. 546, §1, 2-2-99)

### **Sec. 12-27. Kill Police Dog or Police Horse.**

(a) No person shall willfully kill any police dog or police horse owned, or the service of which is employed, by The Village Police Department.

(b) Any person who is convicted of violating any provision of this section shall be guilty of Class A Offense, punishable by the imposition of a fine not exceeding Seven Hundred and Fifty (\$750.00) dollars, or by imprisonment in the county jail not exceeding sixty (60) days, or by both such fine and imprisonment.

State law reference: O.S. Title 21, §649.2

(Ord No. 546, §2, 2-2-99)

### **Sec. 12-28. Intimidation of witnesses.**

- a) It shall be unlawful for any person to maliciously and with intent to intimidate or harass another person or to damage, destroy vandalize or deface any real or personal property of another person in an attempt to deter or prevent such other person from either making a report to the police of an alleged violation of this Code or for providing testimony in any matter before the municipal court.
- b) Any person violating or permitting the violation of any provision of this Section shall be guilty of a Class A offense and upon conviction whereof shall be subject to a fine of not more than Seven Hundred and Fifty Dollars (\$750.00) and up to sixty (60) days imprisonment or both said fine and imprisonment.

(Ord. No. 608, §1, 08-16-2005)

**Secs. 12-29--12-40. Reserved.**

## **ARTICLE III. OFFENSES AGAINST PUBLIC ORDER AND SAFETY**

### **DIVISION 1. GENERALLY**

**Sec. 12-41. Assault, battery, etc.**

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(a) It is unlawful for any person to attempt to strike or in any unlawful manner offer to do bodily harm to another, or to make an attempt to apply, either directly or indirectly, any degree of force or violence to the person of another.

(b) It shall be unlawful for any person to strike, beat, maim, or in any unlawful manner do bodily injury to another, or in a violent, angry, rude, or insolent manner touch or lay hands upon the person of another.

(Code 1976, §§ 10-9-1, 10-9-2)

State law references--Assault, battery, etc., 21 O.S. § 461 et seq.; authority to punish assaults, etc., 11 O.S. § 22-110.

### **Sec. 12-42. False alarms.**

No person shall harass or attempt to harass or mislead any officer by false alarm or by use of any device to summon police, fire protection, or other emergency aid without reasonable cause.

(Code 1976, § 10-2-1(i))

### **Sec. 12-43. Disturbing the peace.**

If any person shall willfully or maliciously disturb, either by day or night, the peace and quiet of the city or any neighborhood, family or person by loud or unusual noise, or by abusive, violent, obscene or profane language, whether addressed to the party so disturbed or some other person, or by threatening to kill, do bodily harm or injury, destroy property, fight, or by quarreling or challenging to fight, or fighting, or shooting off any firearms, or brandishing the same he shall be deemed guilty of a misdemeanor.

(Code 1976, § 10-3-1)

State law reference--Disturbing the peace, 21 O.S. § 1361 et seq.

### **Sec. 12-44. Disorderly conduct.**

No person shall:

(1) Threaten physical violence; or

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(2) Engage in violent or tumultuous conduct.

(Code 1976, § 10-3-2)

State law reference--Disorderly conduct generally, 21 O.S. § 1361 et seq.

### **Sec. 12-45. Public intoxication.**

No person shall appear in any highway or other public place or upon any private property not lawfully under his control under the influence of alcohol, narcotics, or other drugs not therapeutically administered.

(Code 1976, § 10-4-1)

Cross references--Driving under influence of alcohol or drugs, § 13-9; driving while ability impaired by consumption of alcohol, § 13-10.

State law reference--Public intoxication, 37 O.S. § 1.

### **Sec. 12-46. Indecent exposure.**

Any person who shall indecently expose his person, or who shall be guilty of any lewd or lascivious conduct in public shall be guilty of an offense.

(Code 1976, § 10-4-2)

State law reference--Indecent exposure, 21 O.S. § 1021.

### **Sec. 12-47. Peeping toms.**

No person shall look, peer, or peep into, or commit an act of voyeurism around, or within view of any window not on his own property with the intent of watching or looking through said window.

(Code 1976, § 10-4-3)

State law reference--Similar provisions, 21 O.S. § 1171.

### **Sec. 12-48. Obscene materials and conduct.**

(a) As used in this section:

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(1) Obscene means that to the average person, applying contemporary community standards, the depiction of sexual conduct in material is patently offensive, and taken as a whole appeals to prurient interest and lacks serious literary, artistic, educational, or scientific purpose or value.

(2) Sexual *conduct* means and includes any of the following:

a. Acts of sexual intercourse including any intercourse, which is normal or perverted, actual, or simulated;

b. Acts of deviate sexual conduct, including oral and anal sodomy;

c. Acts of masturbation;

d. Acts of excretion in a sexual context; or

e. Acts of exhibiting human genitals or pubic areas.

(b) No person shall knowingly sell, offer for sale, give away, exhibit, publish, or otherwise distribute, display, or exhibit any book, magazine, pamphlet, paper, writing, card, circular, print, photograph, motion picture film, video recording, image, case, slide, figure, instrument, statue, drawing, presentation, or other article or material pertaining to sexual conduct, which is obscene as defined herein.

(Code 1976, § 10-4-5; Ord. No. 378, §§ 1, 2, 2-3-87)

Cross-reference--Sexually oriented businesses, § 11-296 et seq.

State law reference--Obscene materials and conduct, 21 O.S. §§ 1021-1040.53.

### **Sec. 12-49. Material harmful to minors.**

(a) In this section:

(1) A *reasonable bona fide attempt* means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, and birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

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(2) *Harmful to minors* means that quality of any description, exhibition, presentation or representation, in whatever form, or nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:

a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and

b. The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

c. The material or performance lacks serious literary, scientific, artistic, or political value for minors.

(3) *Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief, which warrants further inspection or inquiry of both:

a. The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and

b. The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(4) *Material* means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, or recording tape, videotape.

(5) *Minor* means any unmarried person under the age of eighteen (18) years.

(6) *Nudity* means the showing of the human male or female genitals, pubic area, or buttocks with less than full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

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(7) *Performance* means any motion picture, film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

(8) *Sadomasochistic abuse* means flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(9) *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

(10) *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(b) No person having custody, control or supervision of any commercial establishment shall knowingly:

(1) Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material provided, however, a person shall be deemed not to have displayed material harmful to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view;

(2) Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or

(3) Present to a minor or participate in presenting to a minor, with or without consideration, any performance, which is harmful to a minor.

(c) It shall be an affirmative defense to any prosecution under this section that the material or performance involved was displayed, presented or disseminated to a minor at a recognized and established school, church, museum, medical clinic, hospital, public library, governmental agency, quasi-governmental agency and persons acting in their capacity as employees or agents of such persons or organizations, and which institution displays, presents or disseminates such material or performance for a bona fide governmental, educational or scientific purpose.

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(d) Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act, thing, or transaction prohibited by this section shall constitute a separate offense as to each item; issue or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title, monthly issue, volume and number issue, or other such identical material shall constitute a single offense.

(Ord. No. 359, § 1(17-17A-1), 9-17-85)

State law reference--Materials harmful to minors, 21 O.S. § 1021.2.

### **Sec. 12-50. Prostitution.**

(a) In this section:

(1) *Lewdness* means the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

(2) *Prostitution* means the giving or receiving of the body for sexual intercourse for hire, and the giving or receiving of the body for indiscriminate sexual intercourse without hire.

(b) It is unlawful for any person to:

(1) Engage in prostitution, lewdness, or assignation;

(2) Solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself;

(3) Reside in, enter, or remain in any structure or any vehicle or conveyance for the purpose of prostitution, lewdness, or assignation;

(4) Aid, abet or participate in the doing of any of the acts herein prohibited; or

(5) Engage in any sexual acts with a prostitute for hire.

(Code 1976, §§ 10-4-6, 10-4-7)

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### **Sec. 12-51. Possession of weapons.**

(a) It shall be unlawful for any person to have in his possession, except within his own domicile, or carry or use any: air gun; "B-B gun"; gas-operated or spring gun; instrument, toy, or weapon commonly known as a "pea shooter," "slingshot," or "beanie"; bow of any kind made for the purpose of throwing or projecting missiles of any kind by any means whatsoever; sword cane; blackjack; loaded cane; billy; hand chain; metal knuckles; or other offensive weapon.

(b) Subsection (a) does not:

(1) Apply to United States marshals, state sheriffs, constables, and their deputies, and any regular, special, or ex officio police officer, or any other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties;

(2) Prohibit the transportation of weapons in a manner consistent with state law.

(Code 1976, §§ 10-8-1--10-8-3; Ord. No. 715 § 1 11-07-2016)

### **Sec. 12-52. Landing helicopters.**

No person shall land a helicopter within the city except where a police or medical emergency is involved or unless written permission is secured from the city manager in advance of such landing.

(Ord. No. 256, § 1(7-6A-1), 5-1-79)

### **Sec. 12-53. Glue sniffing.**

(a) It shall be unlawful for any person to deliberately smell, inhale, breathe, drink or otherwise consume any compound, liquid, chemical, narcotic, drug, or any other substance or chemical containing any ketones, aldehydes, or organic acetones, ether, chlorinated hydrocarbons, such as gasoline, blue, fingernail polish, adhesive cement, mucilage, dope, or any other substance or combination thereof containing solvents releasing toxic vapors, which can cause conditions of intoxication, inebriation, excitement, elation, stupification, paralysis, irrationality, dulling of the brain or nervous system, or any other changing, distorting or disturbing of the eyesight, thinking processes, judgment, balance or coordination of such person.

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(b) Subsection (a) does not apply:

(1) To any person who inhales, breathes, drinks or otherwise consumes such material or substance described pursuant to the direction or description of any licensed doctor, physician, surgeon, dentist or podiatrist, or

(2) To the consumption of intoxicating liquor in such place or manner as may be authorized and permitted by law.

(Code 1976, § 10-6-2)

Cross reference--Driving under the influence of alcohol or drugs, § 13-9.

State law reference--Glue sniffing, 37 O.S. § 8, 63 O.S. § 465.20.

### **Sec. 12-54. Controlled dangerous substances; Drug paraphernalia.**

(a) In this section "controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, Title 63, § 2-101 et seq.

(b) In this section "drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Oklahoma Uniform Controlled Dangerous Substances Act. Drug paraphernalia includes, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived;

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances;

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant, which is a controlled dangerous substance;

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(4) Testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled dangerous substances;

(5) Scales and balances used or intended for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled dangerous substances;

(6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances;

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances;

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances;

(10) Containers and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devises;

(d) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

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- (i) Air-driven pipes;
- (j) Chillums;
- (k) Bongs;
- (l) Ice pipes or chillers.

provided, however, drug paraphernalia shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation or pipes designed for smoking tobacco.

(c) It is unlawful for any person:

(1) Under the influence of a controlled dangerous substance as defined herein to appear or be upon or in any street, alley, place of business, or other public place in the city;

(2) To use a controlled dangerous substance as defined herein upon or in any street, alley, place of business, or other public place;

(3) To possess any controlled dangerous substances as defined herein except as legally prescribed by a physician licensed to practice in this state;

(4) To loiter about a place where any controlled dangerous substance as defined herein is sold or furnished illegally;

(5) To sell or furnish illegally to another person any controlled dangerous substance as defined herein.

(6) To have in his possession drug paraphernalia as defined herein.

(7) To sell disposable syringes or permanent type hypodermic needles or hypodermic syringes, except when prescribed by a licensed physician or veterinarian. (Ord. No. 595 §1, 8-3-2004)

(d) Any person who violates any provision of this section shall be guilty of a Class A offense, which is punishable by a fine not to exceed Seven Hundred and Fifty (\$750.00) and/or up to sixty (60) days in jail.

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(Ord. No. 226, §§ 1, 2, 1-18-77; Ord. No. 515, § 1, 2-7-95)

Cross reference--Driving under the influence of alcohol or drugs, § 13-9.

State law reference--Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101 et seq.

### **Sec. 12-55. Liquid wastes.**

No person shall discharge or cause to be discharged the following described water or liquid waste on any public highway or street thereby endangering life, limb, public property, or constituting a nuisance:

(a) Any gasoline, benzene, naphtha, fuel, oil, oil based paint, or other flammable or explosive liquids; or

(b) Any water based paint or any wastewater containing hazardous chemicals, antifreeze, fats, wax, grease or oils, whether emulsified or not.

The violation of any provision of this section shall be punishable as a Class B offense. Each day any violation of this section exists shall be deemed a separate offense.

(Ord. No. 424, §§ 1, 3, 6-6-89)

### **Sec. 12-56. Skateboards.**

a) It shall be unlawful for any person to skateboard or to place or use any skateboard ramp in a commercially zoned area.

b) It shall be unlawful for any person to place or use any skateboard ramp at any single family residence.

(Ord. No. 438, Section 1, 4-3-90; Ord. No. 444 Section, 1, 6-19-90; 2012 Code; Ord. No. 680, §1, §2, 02-19-2013; Ord. No. 693, §1, 04-15-2014; 2014 Code)

### **Sec. 12-57. Throwing lighted cigarette, litter from a vehicle.**

A) The operator of a vehicle, unless any other person in the vehicle admits to or is identified as having committed the act, shall be liable pursuant to subsection B of this section for any act of throwing, dropping, depositing, or otherwise placing any litter from a vehicle upon highways, roads, or public property.

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- B) Any person convicted of violating the provisions of subsection A of this section shall be guilty of a Class A offense punishable by a fine of not more than Seven Hundred and Fifty Dollars (\$750.00) and up to sixty (60) days imprisonment or both such fine and imprisonment.
- C) As used in this section, "litter" means any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, any substance which may cause a fire, any bottles, cans, trash, garbage, or debris of any kind. As used in this section, "litter" shall not include trash, garbage, or debris placed beside a public road for collection by a garbage or collection agency.

State law reference: Title 21, O.S. Section 1753.3 (2004 City Code)

### **Sec. 12-58. Transporting a handgun without a valid license.**

- A. Notwithstanding the provisions in Section 1272 or 1289.13 In Title 21 of the Oklahoma Statutes, it shall be unlawful for any person stopped pursuant to a moving traffic violation on the City streets or highways to be transporting a loaded pistol in the motor vehicle without a valid handgun license authorized by the Oklahoma Self-Defense Act or valid license from another state, whether the loaded firearm is concealed or unconcealed in the vehicle.
- B. Any person violating Section A. above shall be issued a traffic citation in the amount of Seventy Dollars (\$70.00), plus court costs for transporting the firearm improperly.
- C. In addition to the traffic citation in Section B. above, the person may also be given a ticket or arrested for any other violation of law.

(Ord. No. 679, §1, 01-15-2013)

**Secs. 12-59--12-65. Reserved.**

## **DIVISION 2. NOISE**

### **Sec. 12-66. Definitions.**

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

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*Allowable level of noise* means not more than ninety-five (95) decibels as measured on the A scale of a General Radio Company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a motor vehicle as such motor vehicle passes the sound level meter, or is stationed not less than twenty (20) feet from a stationary motor or engine.

*Motor vehicle* means every vehicle, which is self-propelled.

(Code 1976, § 10-14-1)

### **Sec. 12-67. Exemptions.**

This article does not apply to emergency situations where life, health, or property is at stake, or to those normal situations of community life where noise is inherent and has been long accepted by the community, such as activities during school recess, and at public parks and athletic contests.

(Code 1976, § 10-14-16)

### **Sec. 12-68. Horns and other signaling devices.**

The sounding of any horn or other signaling device on any motor vehicle on any highway or public place of the city, except as specifically permitted or required by law, or as a danger warning, and the sounding of any such device for any unnecessary period of time is unlawful.

(Code 1976, § 10-14-3)

### **Sec. 12-69. Exhausts.**

The discharge into the open air of the exhaust of any stationary or portable internal combustion engine, or motor vehicle except through a muffler in good repair or other device which will effectively prevent loud or disturbing noises there from above the allowable level of noise is unlawful; provided, that where such stationary or portable internal combustion engine is enclosed within a building used for industrial or commercial purposes, the allowable level of noise shall be measured at the nearest point on the boundary of the property on which such engine is located. This section shall not apply to aircraft or to supporting ground equipment for aircraft.

(Code 1976, § 10-14-4)

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### **Sec. 12-70. Mismanagement, misuse, repair of vehicles; deposit of automotive fluids, lubricants, and other pollutants; salvage yards and vehicle storage.**

- a) The use of any motor vehicle, which, because of it being out of repair, or because of it not being loaded properly, or because of the manner of its operation creates a loud and disturbing noise, is unlawful. (Code 1976, § 10-14-5)
- b) It shall be unlawful for any person to make mechanical or body repairs to any vehicle, which is legally parked on a public street or right-of-way between the hours of 8:00 pm and 8:00 am.
- c) It shall be unlawful for any person to cause, allow, or permit any automotive fluid, lubricant, or other pollutant to be deposited on any public street, right-of-way, driveway, or any other location, which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S.
- d) It shall be unlawful for any renter, landlord, or person in control of any residential property to cause, allow, or permit a salvage yard on a residential lot. The storage of more than two unused vehicles in an enclosed yard shall constitute a salvage yard. For the purpose of this section, unused vehicle shall mean any motor vehicle, which is not driven from the property under its own power at least one time a week. (Effective May 18, 2006)
- e) The violation of this section shall be a Class A offense carrying a penalty of up to seven hundred and fifty dollars (\$750.00) or sixty days (60) imprisonment or both said fine and imprisonment. Each day that a violation occurs shall be deemed a separate offense.

(Ord. No. 612, §1, 11-15-2005; Ord. No. 615, §1, 04-18-2006) (Code Cross Reference - Chapter 9, Section 209)

### **Sec. 12-71. Loading, unloading, or opening of boxes.**

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The creation of a loud and disturbing noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers between the hours of 10:00 p.m. and 7:00 a.m. is unlawful.

(Code 1976, § 10-14-6)

### **Sec. 12-72. Blowers.**

The operation of any noise-creating blower or power fan, unless the noise from such blower or power fan is adequately muffled, is unlawful.

(Code 1976, § 10-14-7)

### **Sec. 12-73. Whistles.**

The blowing of any whistle, except in conjunction with organized sports events or school playground activities or as a warning of fire or danger or upon request of proper city authorities, is unlawful.

(Code 1976, § 10-14-8)

### **Sec. 12-74. Loudspeakers, amplifiers, or noise devices for advertising.**

The using of any radio or television set, musical instrument, phonograph, loudspeaker, sound amplifier, bell, drum, horn or other machine or device for the producing or reproducing of sound directed upon public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure or tent is unlawful. Temporary exceptions for civic events or for civic or religious organizations or for the playing of music during the Christmas season only may be authorized by the city manager for such periods of time and under such conditions as may be consistent with the public interest.

(Code 1976, § 10-14-9)

### **Sec. 12-75. Radios, television sets, sound equipment, etc.**

The playing of any radio or television receiving set, musical instrument, or other machine or device for producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants is unlawful.

(Code 1976, § 10-14-10)

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### **Sec. 12-76. Yelling, shouting, making noise on public rights-of-ways, or on certain private property.**

No person, while on public property, public right of way or private property adjacent to any property described herein, shall willfully make or assist in making noise, whether by use of loudspeaker, sound amplifier or other similar device for reproducing sound, or otherwise yell, hoot or shout, so as to disturb the comfort, peace, solemnity, repose, or good of the order of any:

- (a) public or private school or class thereof while in session;
- (b) person(s) inside of their home, residence or dwelling;
- (c) person(s) engaged in the judicial function of the municipal court while in session; or
- (d) congregation or assembly of persons gathered for religious worship or ceremony within a church building.

(Ord. No. 577, §1, 10-15-02; Code 1976, § 10-14-11)

### **Sec. 12-77. Domestic pets.**

The keeping of any domestic bird or animal, which emits frequent or long continued noise so as to disturb the peace, quiet, and comfort of the neighboring inhabitants is unlawful.

(Code 1976, § 10-14-12)

### **Sec. 12-78. Tools.**

The use in a residential zone of hand or power tools, or machinery, resulting in loud and disturbing noises between 10:00 p.m. and 7:00 a.m. is unlawful.

(Code 1976, § 10-14-13)

### **Sec. 12-79. Hawkers, peddlers, and vendors.**

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The shouting and crying of peddlers, hawkers, or vendors on any public street or place or on private property so closely adjacent thereto that thereby crowds may be collected and traffic obstructed thereon is unlawful.

(Code 1976, § 10-14-14)

### **Sec. 12-80. Sirens.**

The sounding of sirens on escort service, except where specifically required or permitted by law and not for the purpose of calling attention to a vehicle or caravan is unlawful. The sounding of a siren on an ambulance, except when operated in response to an emergency call and when reasonably necessary to warn pedestrians and other drivers of the approach thereof is unlawful.

(Code 1976, § 10-14-15)

### **Sec. 12-81. Loitering.**

It shall be unlawful for any person, to loiter, stand, sit or lie in or upon any private property where a "no loitering" sign or signs have been posted.

(Ord. 655, § 1, 10-19-2010)

Code Cross Reference, Chapter 21, Section 21-29.

### **Sec. 12-82. Prohibited Noise.**

#### a) Definitions:

- a. *Person* means any individual, association, partnership or corporation and includes any officer, employee or agent of said individuals or entities.
- b. *Noise* means any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on a human of reasonable or normal sensitivities.

- b) It shall be unlawful for any person who owns or leases commercial property, retail space or other business space that is within five hundred feet of a residential lot, to permit or allow any other person using said property during regular business hours to make or cause noise between the hours of 8:00 p.m. and 6:00 a.m.

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(Ord. No. 694, §1, 04-15-2014)

**Secs. 12-83--12-95. Reserved.**

### ARTICLE IV. OFFENSES INVOLVING PROPERTY

**Sec. 12-96. Larceny.**

The taking of personal property, accomplished by fraud or stealth, and with the intent to deprive another thereof, is hereby defined as an offense.

(Code 1976, § 10-10-1; Ord. No. 410, § 1, 6-21-88)

State law reference--Larceny, 21 O.S. § 1701 et seq.

**Sec. 12-97. Fraud.**

It is unlawful for any person, with intent to cheat and defraud, obtain or attempt to obtain from any person, firm or corporation any money, property or valuable thing, by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instrument or device, commonly called a confidence game.

(Code 1976, § 10-10-2)

State law reference--Fraud, 21 O.S. § 1500 et seq.

**Sec. 12-98. Altering price labels; switching merchandise from containers.**

(a) It shall be unlawful for any person to alter, transfer, or remove any label, price tag, marking, indicator of value or other marking which aids in determining value affixed to any merchandise displayer, held, stored, or offered for sale in a retail mercantile establishment and to attempt to purchase such merchandise personally or in concert with another at less than retail price with the intention of depriving the merchant of the retail price of such merchandise.

(b) It shall be unlawful for any person to transfer any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container or place in which such merchandise is displayed to any other container or place with the intention of depriving the merchant of the retail price of such merchandise.

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(Ord. No. 361, § 1, 12-17-85)

### **Sec. 12-99. Bad checks.**

(a) In this section, " *false or bogus check*" includes check or order given for money or property or in any case, where the maker received a benefit or thing of value, which is not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof. The making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and provided, further, that the check or order is presented for payment within thirty (30) days after the same is delivered and accepted.

(b) It is unlawful for any person to obtain from any other person any money, property, or thing of value by means or use of any false or bogus check, or by any other written, printed, or engraved instrument.

(Code 1976, § 10-10-4)

State law reference--Bad checks, 21 O.S. § 1541.3 et seq.

### **Sec. 12-100. Unlawful use of credit card.**

(a) It is unlawful for a person to use a credit card for the purpose of obtaining property or services with knowledge that:

- (1) The card is stolen or forged; or
- (2) The card has been revoked or canceled; or
- (3) For any other reason his use of the card is unauthorized.

(b) In this section " *credit card*" means an identification card or device issued to a person by a business organization, which permits such person to purchase or obtain goods, property, or services on the credit of such organization.

(Code 1976, § 10-10-5)

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State law reference--Credit card crimes, 21 O.S. § 1500.1 et seq.

### **Sec. 12-101. Receiving stolen property.**

(a) In this section:

(1) *Dealer* means a person in the business of buying or selling goods.

(2) *Movable property* means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have No physical location.

(3) *Receiving* means acquiring possession, control, or title or lending on the security of the property.

(b) It is unlawful for a person to receive, retain, or dispose of movable property of another knowing that it has been stolen, or believing that it has probably been stolen, unless the property is received, retained, or disposed with purpose to restore it to the owner.

(c) The requisite knowledge of belief is presumed in the case of a dealer who:

(1) Is found in possession or control of property stolen from two (2) or more persons on separate occasions; or

(2) Has received stolen property in another transaction within the year proceeding the transaction charged; or

(3) Being a dealer in property of the sort received, acquires it for a consideration, which he knows, is far below its reasonable value.

(Code 1976, § 10-10-6)

State law reference--Receiving stolen property, 21 O.S. § 1713.

### **Sec. 12-102. Injury to motor vehicles.**

It shall be unlawful for any person to operate, loiter in or upon, deface or injure, or meddle with any machinery or parts of, any automobile or motor vehicle without the consent of the owner of such automobile or motor vehicle. It is an affirmative defense to prosecution under this section that the

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actor reasonably believed that the owner would have consented to the operation had he known of it.

(Code 1976, § 10-10-7)

State law references--Injuring or molesting motor vehicles, 21 O.S. § 1787 et seq.; car theft, 21 O.S. § 1720.

### **Sec. 12-103. Criminal mischief.**

It is unlawful for any person to:

(1) Damage tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous instrumentalities or substances; or

(2) Purposely or recklessly tamper with tangible property of another so as to endanger a person or property; or

(3) Purposely or recklessly cause another to suffer from pecuniary loss by deception or threat; or

(4) Purposely or recklessly damage or destroy any street marker, or traffic control sign of this city; or

(5) Purposefully remove or recklessly damage or destroy any sign of the city notifying the public of condemnation or nuisance abatement proceedings.

(Code 1976, § 10-10-8; Ord. No. 399, § 1, 11-17-87)

State law reference--Malicious mischief, 21 O.S. § 1751 et seq.

### **Sec. 12-104. Trespass.**

(a) It shall be unlawful for any person to commit a trespass within this city upon either public or private property.

(b) Without constituting a limitation on subsection (a) of this section, any of the following acts shall be deemed a trespass:

(1) An entry, by vehicle or person, upon the premises or any part thereof, of another in violation of any notice, warning or protest given orally or in writing, by an owner or occupant thereof; or

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(2) A failure or refusal to depart from the premises of another in case of being requested, either orally or in writing by any owner or occupant thereof; or

(3) An entry into any vehicle made without the consent of the person having the right of possession or control thereof, or a failure to leave such vehicle after being requested to leave by the person having such right.

(c) The burden of showing permission rests on party entering. In all cases where such entry is made, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises or is observed by a police officer who files charges against the party so entering, the burden is put upon the person making the entry to show that permission for such entry was given.

(Code 1976, §§ 10-15-1, 10-15-2; Ord. No. 346, § 1, 7-3-84)  
State law reference--Trespass, 21 O.S. § 1835.

### **Sec. 12-105. Theft or destruction of library materials.**

(a) As used in this section:

(1) Library facility means any:

- a. Public library; or
- b. Library of an educational, historical, or eleemosynary
- c. Museum; or
- d. Repository of public or institutional records.

(2) Library material means any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, catalog cards or catalog records, electronic data processing records, computer software, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging or on loan to, or otherwise in the custody of a library facility.

(3) Demand means either actual notice to the possessor of any library materials or the mailing of written notice to the possessor at the last address

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of record, which the library facility has for said person, demanding the return of the designated library materials. If demand is made by mail, it shall be deemed to have been given as of the date the notice is mailed by the library facility.

(b) Any person shall be guilty, upon conviction, of library theft who willfully:

(1) Removes or attempts to remove any library material from the premises of a library facility without authority; or

(2) Mutilates, destroys, alters or otherwise damages, in whole or in part, any library materials; or

(3) Fails to return any library materials, which have been lent to said person by the library facility, within seven (7) days after demand has been made for the return of the library materials.

(c) A person convicted of library theft shall be subject to a fine not exceeding two hundred dollars (\$200.00) or restitution, or both fine and restitution to the library facility including payment of all expenses incurred by the library facility as a result of the actions of the offender.

(Ord. No. 412, §§ 1, 3, 9-6-88)

### **Sec. 12-106. Shoplifting; definitions.**

(a) As used in this Section:

(1) "*Mercantile establishment*" means any mercantile place of business in, at, or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale;

(2) "*Merchandise*" means all goods, wares and merchandise offered for sale or displayed by a merchant;

(3) "*Wrongful taking*" includes stealing or any other wrongful appropriation of merchandise.

(b) It shall be an offense for any person to conceal un-purchased merchandise, either on the premises or outside the premises of any mercantile establishment. Said act of concealment by any person shall

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constitute intention to commit a wrongful taking of such merchandise from a merchant.

(Ord. No. 478, § 1, 8-4-92)

**State law reference--22 O.S. §1341 et seq.**

**Secs. 12-107--12-115. Reserved.**

### ARTICLE V. GAMBLING

**Sec. 12-116. Prohibited generally.**

(a) Except as authorized by state law, no person shall bet or wager, within the city, any money, thing or consideration of value, either directly or by means of books, cards, machines, or any other device, apparatus, paraphernalia, or any kind, upon the result of any trial of speed, or power of endurance, or pretended trial of speed, or power of endurance of any animal, or upon any other event.

(b) Any person who opens, causes to be opened, conducts or carries on, whether for hire or not, any poker, roulette, crap game, banking or percentage game, or any gambling game played with dice, cards or any device, for money, checks, credits or any thing of value, or who deals for those engaged in any such game shall be guilty of an offense.

(Code 1976, §§ 10-5-1, 10-5-11)

**Sec. 12-117. Establishments.**

Except as authorized by state law, no person, either as owner, lessor, or occupant, shall occupy, use, or permit to be used or occupied, or consent to the use, or occupancy of any room, tenement, shed, booth, building, ground or plot of ground, or any part thereof, within the city, for the purpose or with the intent to use, occupy the same, or any part thereof, for receiving, accepting, or offering to receive, or accept, or place any bet, or wager of any money, thing or concept, or place any bet, or wager of any money, thing or consideration of value, offered, received, or accepted, either directly or by means of any mutuels, books, apparatus, paraphernalia, machines or other devices, on the result or pretended result of any trial of speed, or power of endurance of any animal or any other kind of event.

(Code 1976, § 10-5-2)

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### **Sec. 12-118. Paraphernalia.**

Except as authorized by state law, no person shall have in his possession, keep, exhibit, use or employ, any device, paraphernalia, books, machines, or instrument of any kind, or character, within the city for the purpose of:

(1) Receiving, accepting, recording or registering any bet or wager; or

(2) Selling or making of any books, pools or mutuels; or

(3) Becoming custodian, or depository for gain, hire, or reward of any money, property, thing, or consideration of value, bet or wagered or contrary to this article.

(Code 1976, § 10-5-3; 2004 City Code)

### **Sec. 12-119. Taking bets.**

No person shall accept, receive, register, record, forward, or pretend to receive, register, records, or forward any bet or wager or reward, to or for any race, course, or place where any contest or trial of speed, or power of endurance of any animal.

(Code 1976, §§ 10-5-3, 10-5-4)

### **Sec. 12-120. Messages.**

It shall be unlawful for any person, to intentionally, or knowingly transmit, or deliver any message, or information within the city, to or from, or for the use of any person engaged in any manner, either as principal or agent, in receiving, accepting, making, or placing any bet, or wager, upon any horse race, or pretended horse race, or any contest or trial of speed, or power of endurance of any animal, or the result of any pretended trial of speed, or power of endurance of any animal. Each message, or pretended message accepted, or received by such person for transmission or delivery shall constitute a separate and distinct offense.

(Code 1976, § 10-5-5)

### **Sec. 12-121. Frequenting gambling establishments.**

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It shall be unlawful for any person to frequent or loiter in or about any place where any bet, or wager of money, or property or thing or consideration of value is being bet, wagered, or made directly or by means of any books, mutuels, machines, apparatus or other devices upon the result of any trial of speed, or power of endurance, or contest of animals, or any pretended trial of speed, or power of endurance, or contest of animals, or any other event.

(Code 1976, § 10-5-6)

### **Sec. 12-122. Slot machines.**

(a) In this section "*slot machine*" means any machine, which may be played by others for money, property, checks, credits, or representative of value, or any machine which shall vend merchandise in varying quantities, such quantities in any way depending upon chance. "Slot machine" does not include vending machines, which only store merchandise and deliver a stated amount upon deposit of a coin.

(b) It shall be unlawful for any person to operate or be in control of a slot machine. It shall be unlawful for any person to deposit any coin or slug for the purpose of playing a slot machine.

(c) It shall be the duty of police officers to seize and take charge of any slot machine operated or used in violation hereof and convey the same to the municipal judge. If the judge finds, after a hearing that such machine was used in violation of any provisions hereof he shall declare same a nuisance and unlawful and shall order it destroyed forthwith in manner and form as he shall prescribe.

(Code 1976, §§ 10-5-7, 10-5-8, 10-5-10)

### **Sec. 12-123. Card raffles, etc.**

No person shall exhibit or be in charge of any card raffle or lottery or game of chance, except as permitted by state law.

(Code 1976, § 10-5-8)

## ARTICLE VI. FIREWORKS

### **Sec. 12-124. Possession and use prohibited.**

The possession or use of fireworks within the city is prohibited.

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(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-125. Definitions.**

The term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article, prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy gun in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, dagobombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets, or other device containing any explosive substance, except that the term "fireworks" shall not include toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used and toy pistol caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Nothing in this article shall be construed as applying to the possession or use of signals necessary for the safe operation public or private transportation, or applying to the military or naval forces of the United States or of this state, or to peace officers, or to prohibiting possession or use of blank cartridges for ceremonial, theatrical, or athletic events.

(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-126. Manufacture, sale and discharge of fireworks.**

- (a) The manufacture of fireworks is prohibited within the municipality.
- (b) Except as otherwise specifically provided in this article, it shall be unlawful for any person to possess, assemble, store, transport, receive, keep, sell, offer or have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description except as provided in subsections (c) through (g) herein.
- (c) The fire chief may adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by fair associations, amusement parks, and other organizations or groups of individuals. Such permits may be granted upon application to the fire chief after approval of the chief of police and the filing of such

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insurance by the applicant as provided in section 12-127. Every such display shall be handled by a competent operator approved by the fire chief and the chief of police and shall be of such composition, character, and so located, discharged or fired as in the opinion of the fire chief, after proper inspection, and of the chief of police, shall not be hazardous to property or endanger any person or persons.

- (d) Application for permits shall be made in writing at least five (5) days in advance of the date of the display. After such privilege has been granted, sale, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.
- (e) The sale, possession, use, and distribution of fireworks for display purposes shall be conducted so as to be reasonably safe to persons and property. Evidence that the sale, possession, use and distribution of fireworks for display purposes has been conducted in accordance with the applicable standard specified shall be evidence that such sale, possession, use and distribution of fireworks for display purposes provide reasonable safety to persons and property.
- (f) The fire chief may adopt reasonable rules and regulations for the use of model rockets. The design, construction, and use of model rockets shall be reasonably safe to persons and property. Evidence that the design, construction, and use of model rockets is in accordance with the applicable standard specified shall be evidence that such design, construction, and use provides reasonable safety to persons and property.
- (g) It shall be unlawful for any person to transport fireworks through the City of The Village unless said fireworks are kept at all times in its original packaging.

(Ord. No. 387, § 1, 7-21-87; 2006 City Code)

### **Sec. 12-127. Insurance required.**

The permittee shall furnish a certificate of insurance in an amount deemed adequate by the chief of the fire department or his designated representative for the payment of all damages, which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or

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subcontractors. Said amounts shall be not less than twenty-five thousand dollars (\$25,000.00) for any one person, fifty thousand dollars (\$50,000.00) for any one accident, and twenty-five thousand dollars (\$25,000.00) for property damage.

(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-128. Disposal of unfired fireworks.**

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way that is safe for that particular type of fireworks remaining.

(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-129. Seizure of fireworks.**

The presence of any fireworks within the jurisdiction of the city in violation of this article is hereby declared to be a common and public nuisance. The fire chief is directed and required to seize, remove and cause to be safely destroyed at the expense of the owner any fireworks found in violation of this article and any officer of the fire department or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire chief can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section.

(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-130. Use of property.**

Any person who knowingly permits others to possess or use fireworks on property owned, possessed, occupied, or under his control or supervision is guilty of an offense.

(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-131. Responsibility for acts of minors.**

Any adult person who knowingly permits any minor within his or her lawful control, supervision, or custody to use or possess fireworks is guilty of an offense.

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(Ord. No. 387, § 1, 7-21-87)

### **Sec. 12-132. Right of entry to enforce article.**

The fire chief or any member of the fire department of the city is hereby authorized to enter any building, dwelling, or out building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.

### **Sec. 12-133. Certain signal flares, torpedoes, and rockets exempt from article.**

This article shall not apply to signal flares or rockets for military or police use.

(Ord. No. 387, § 1, 7-21-87)

### **Secs. 12-134, 12-135. Reserved.**

## ARTICLE VII. WATER EMERGENCIES

### **Sec. 12-136. Definitions.**

The following words, terms, and phrases when used in this article shall have the meanings ascribed to them in this section:

*State of emergency* shall be deemed to exist whenever, by reason of a legally proclaimed emergency water-rationing program by the City of Oklahoma City, Oklahoma, its city manager, city council or appropriate designee, the city manager or city council proclaims a state of emergency as provided in this article.

(Ord. No. 372, § 2, 8-19-86)

### **Sec. 12-137. General Powers during state of emergency.**

If a state of emergency is proclaimed by the city manager or city council as provided in this article, the city manager, with the approval of the city council, may exercise the power to enforce any and all regulations and rules relating to the state of emergency.

(Ord. No. 372, § 3, 8-19-86)

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### **Sec. 12-138. Authorization and termination of emergency powers.**

(a) The emergency powers conferred in this article shall become effective immediately upon the issuance of a proclamation of the existence of a state of emergency:

- (1) By the city manager or his designee;
- (2) By resolution of the city council.

(b) If the urgency of the situation requires, the city manager is authorized to declare the state of emergency until such time as the city council may meet and determine the state of emergency exists. The powers conferred in this article are limited to the duration of the state of emergency as determined in this article.

(c) Proclaimed stated of emergency shall be terminated either by the city manager or upon adoption of a resolution by the city council.

(Ord. No. 372, § 4, 8-19-86)

### **Sec. 12-139. Offense.**

It shall be unlawful for any person to use any water from the water system owned and operated by the City of Oklahoma City during a state of emergency proclaimed by the city manager or city council except in accordance with the rules and regulations approved by the city manager or city council.

(Ord. No. 372, § 5, 8-19-86)

### **Sec. 12-140. Penalty for violation.**

Any person, firm, or corporation who violates any provision of this article shall be punishable by a fine, excluding costs, not to exceed two hundred dollars (\$200.00). Every day that a violation exists of the provisions of this article shall constitute a separate offense.

(Ord. No. 372, § 8, 8-19-86)

### **Secs. 12-141--12-149. Reserved.**

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ARTICLE VIII. CURFEW FOR MINORS

**Sec. 12-150. Purpose and intent.**

The public purpose of this ordinance is to protect juveniles from nocturnal dangers, enhance parental supervision and responsibility for juveniles and to protect the public at large.

(Ord. No. 513, §1, 10-4-94)

**Sec. 12-151. Definitions.**

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

*Curfew hours* means:

(a) 12:01 a.m. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday or Friday; and

(b) 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday.

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Establishment* means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

*Guardian* means:

(a) a person who, under court order, is the guardian of the person of a juvenile; or

(b) A public or private agency with which a juvenile has been placed by a court.

*Juvenile* means any person under eighteen (18) years of age.

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*Parent* means a person who is a natural parent, adoptive parent, or stepparent of another person.

*Public place* means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and retail establishments.

*Remain* means to:

- (a) linger or stay; or
- (b) Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

*Operator* means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

*Responsible adult* means any person having, assuming, or charged with permanent and/or temporary care and/or custody of a juvenile, including, but not limited to:

- (a) Any legal guardian or adult exercising legal guardianship over a juvenile;
- (b) An adult who stands in loco parentis to a juvenile;
- (c) Any person to whom legal custody of a juvenile has been given by order of a court;
- (d) Any adult, who has, assumes or is charged with the care and/or custody of a juvenile at the request of, or on behalf of, a parent, guardian, loco parentis, or person to whom legal custody has been given by order of a court.
- (e) Any adult, who has, assumes or is charged with the care and/or custody of a juvenile at the request of, or on behalf of, another parent.

*Knowingly permit* means the parent, other responsible adult and/or operator as defined herein is aware of the fact the juvenile is in violation of

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the curfew hours or that said person by exercise of reasonable care would have known that the juvenile is in violation of the curfew hours.

(Ord. No. 513, §1, 10-4-94)

### **Sec. 12-152. Offenses.**

- (a) A juvenile commits an offense if he/she remains in any public place or on the premises of any establishment within the corporate limits of the City of The Village during curfew hours.
- (b) A parent and/or other responsible adult of a juvenile commits an offense if:
  - (1) He/she knowingly permits or allows the juvenile to remain in any public place or on the premises of any establishment within the corporate city limits of the City of The Village during curfew hours.
  - (2) the parent and/or other responsible adult of a juvenile has twice previously acted within any consecutive six (6) month period so as to knowingly permit or allow said juvenile to remain in any public place or on the premises of any establishment within the corporate limits of the City of The Village during curfew hours. Every subsequent violation thereof will constitute a separate violation.
- (c) The owner, operator, or any employee of an establishment commits an offense if he knowingly permits or allows a juvenile to remain upon the premises of the establishment during curfew hours.

(Ord. No. 513, §1, 10-4-94)

### **Sec. 12-153. Defenses.**

- (a) It is a defense to prosecution under Section 12-152 that the juvenile was at the time in question:
  - (1) accompanied by the juvenile's parent or responsible adult;
  - (2) on an errand at the direction of the juvenile's parent or responsible adult, without any detour or stop;

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- (3) in a motor vehicle involved in interstate travel;
  - (4) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) involved in an emergency;
  - (6) On the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the juvenile's presence;
  - (7) Attending, going to or returning home, without any detour or stop, from an official school, religious, or other recreational activity supervised by adults or an event sponsored by the City of The Village, a civic organization, or another similar entity that takes responsibility for the juvenile;
  - (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly or other rights protected by the United States or the Oklahoma Constitution; or
  - (9) Married or had been married or had disabilities of minority removed in accordance with state law.
- (b) It is a defense to prosecution under Section 12-152 (c) that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

(Ord. No. 513, §1, 10-4-94)

### **Sec. 12-154. Enforcement.**

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- (a) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense in Section 12-153 is present.
- (b) Absent an interlocal agreement with the district court for the municipal court to exercise jurisdiction over juveniles under eighteen (18) years of age under Section 12-152 pursuant to 10 O.S. § 1102(E) as amended by H.B. 2640 of the 1994 Regular Session of the Oklahoma Legislature, the municipal court must refer all alleged juvenile violations to the Juvenile Bureau of the District Attorney's Office.

(Ord. No. 513, §1, 10-4-94)

State law reference-Title 10, O.S. §1102 (E); H.B. 2640, 1994.

### **Sec. 12-155. Penalty.**

- (a) A person who violates a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed two hundred (\$200.00) dollars, plus costs.
- (b) The municipal court's jurisdiction over a juvenile who violated Section 12-152 of this Article shall be expressly subject to Title 10 of the Oklahoma Statutes, as amended by H.B. 2640 of the 1994 Regular Session of the Oklahoma Legislature.

### **Section 12-156. Truant children.**

- 1) It shall be unlawful for any child subject to compulsory school attendance by law and who is within the corporate City limits of The Village, who is over the age of 12 years and under the age of 18 years, and who has not finished four years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session; and

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- 2) Any child subject to compulsory school attendance who is absent without lawful excuse is truant and guilty of an offense pursuant to this Section.
- 3) **Defense:** It is a defense under this Section that the child:
  - A. Is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;
  - B. Is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;
  - C. Has attained his or her sixteenth birthday and is excused from attending school by written, joint agreement between:
    1. *The school administrator of the school district where the child attends school; and*
    2. *The parent, guardian or custodian of the child.*
  - D. Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of 18 years: or
  - E. It is also a defense under this section if any such child is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence.
- 4) **Temporary detention of truant children.**
  - A. An attendance officer, any school administrator, or designee of the school administrator who is employed by the school, or any

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peace officer may, except for children receiving an education by other means as allowed by law, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and within the school district that they are truant from and who is absent from school without lawful excuse and there is prior approval from the school district for temporary detention and custody pursuant to this Section.

- A. Any person temporarily detaining and assuming temporary custody of a child pursuant to this section shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a non-secure youth service or community center servicing the school district, or to a community intervention center, as defined by State law.
- B. The temporary custody or detention provided by this section shall be utilized as a means of reforming and returning the truant students to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a limited type of detention and is not justified unless there are specific facts causing an attendance officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant.

### 5) Penalties.

- A. Each day the child remains out of school shall constitute a separate offense.
- B. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee and/or duly authorized attendance officer of the school.

(Ord. No. 696, §1, 05-20-2014) (State law reference, 10A O.S. §2-2-103; O.S. Title 70, §10-109)

## ARTICLE IX. YOUTH ACCESS TO TOBACCO

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**Secs 12-157--12-199 Reserved.**

**State law reference--Title 37 O.S. Supp. 1995, Sections 600.2 et seq.**

**Sec. 12-200. Definitions.**

The terms used in this Article shall have the following meanings unless the context clearly indicates another meaning:

*Person* means an individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

*Proof of age* means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

*Sample* means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product;

*Tobacco product* means any product that contains tobacco and is intended for human consumption.

**Sec. 12-201. Sale to minors prohibited.**

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

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- (c) If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine.
- (d) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations, for any violation of subsection (a) or (b) of this section, each individual franchise or business location shall be deemed a separate entity.

(Ord. No. 534, §1, 12-3-96; Ord. No. 618, §2, 7-18-2006; Title 37. O.S. § 600.3)

### **Sec. 12-202. Purchase or possession of tobacco products by minors prohibited.**

It is unlawful for a person who is under eighteen (18) years of age to purchase, accept receipt of, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. Provided, however, that it shall not be unlawful for such a person to handle such tobacco product when required in the performance of such person's duties.

(Ord. No. 534, §1, 12-3-96)

### **Sec. 12-203. Distribution of tobacco product samples to minors prohibited.**

- (a) It shall be unlawful for any person or retailer to distribute tobacco products or product samples to any person under eighteen (18) years of age.
- (b) No person shall distribute tobacco products or product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

(Ord. No. 534, §1, 12-3-96; Ord. No. 618, §2, 7-18-2006; Title 37. O.S. § 600.8)

### **Sec. 12-204. Sale of cigarettes in original, sealed package required.**

It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

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(Ord. No. 534, §1, 12-3-96)

### **Sec. 12-205. Display or sale of tobacco products-- Public access-Fines**

- A) It is unlawful for any person or retail store to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores, which do not admit into the store persons under eighteen (18) years of age.
- B) Any person who violates subsection A of this section, shall be subject to a fine of not more than Two Hundred Dollars (\$200.00) for each offense.
- C) Every person who sells or displays tobacco products at retail shall post conspicuously and keep so posted at the place of business a sign as specified by the ABLE Commission, stating the following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE". The sign shall also provide the toll-free number operated by the ABLE commission for the purpose or reporting violations of the Prevention of Youth Access to Tobacco Act. Any person who violates this subsection shall be subject to a fine of not more than Fifty Dollars (\$50.00) for each day a violation occurs. Each day a violation continues shall constitute a separate offense. The notice required by this section shall be the only notice required to be posted or maintained in any store that sells tobacco products at retail.

(Ord. No. 534, §1, 12-3-96; Ord. No. 618, §2, 7-18-2006; Title 37, O.S § 600.10A)

### **Sec. 12-206. Enforcement of Act; compliance checks.**

- A) Any conviction for a violation of a municipal ordinance authorized by the Prevention of Youth Access to Tobacco Act and any compliance checks by a municipal police officer to subsection C of this section shall be reported in writing to the ABLE Commission within thirty (30) days of such conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission.
- B) For the purpose of determining second or subsequent violations, both the offenses penalized by the ABLE Commission as administrative fines and the offenses penalized by the city and reported to the ABLE Commission, shall be considered together in such determination.

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- C) Persons under eighteen (18) years of age may be enlisted by the city to assist in compliance checks and enforcement; provided, such persons may be used to test compliance only if written parental consent has been provided. The city is hereby authorized to conduct, pursuant to rules of the ABLE Commission, compliance checks without prior notification to the ABLE Commission. This subsection shall not apply to the use of persons under eighteen (18) years of age to test compliance if the compliance test is being conducted by or on behalf of a retailer of cigarettes, as defined in Section 301 of Title 68 of the Oklahoma Statutes, at any location the retailer of cigarettes is authorized to sell cigarettes. Any other use of persons under eighteen (18) years of age to test compliance shall be unlawful and punishable by the assessment of an administrative fine of One Hundred Dollars (\$100.00).

(Title 37, O.S § 600.11)

### **Sec. 12-207. Penalty.**

- A) Except as otherwise provided in this Article, any person who violates any provision of this Article shall be guilty of an offense and shall be subject to a fine of :
- a. not more than One Hundred Dollars (\$100.00) for the first offense,
  - b. not more than Two Hundred Dollars (\$200.00) for the second offense within a two-year period,
  - c. not more than Three Hundred Dollars for a third or more offenses within a two-year period following the first offense.
- B) Proof that the defendant demanded, was shown, and reasonably relied upon proof of age, shall be a defense to any action brought pursuant to Section 12-201 of this Article.

(Ord. No. 534, §1, 12-3-96; Ord. No. 618, §2, 7-18-2006; Title 37. O.S. § 600.3 C)

### **Secs. 12-208—12-249 Reserved**

## **Article X: Smoking in Public Places and Indoor Work Places**

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### **Sec.12-250. Legislative intent.**

The State Legislature by adopting the Smoking in Public Places Act intends to preempt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking. Cities and towns may enact and enforce laws prohibiting and penalizing conduct under provisions of this Article.

(Ord. No. 618, §1, 7-18-2006, State law reference - O.S. Title 63, § 1-1527.)

### **Sec. 12-251. Definitions.**

#### A. As used in this Article:

- a. "Educational facility" means a building owned, leased or under the control of a public or private school system.
- b. "Electronic Smoking Device", as used herein, means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. An Electronic Smoking Device includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, also known as an e-cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or description which can be classified as an Electronic Smoking Device, including Electronic Nicotine Delivery Systems (ENDS), and vapor products.
- c. "Health facility" means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;
- d. "Indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or fulltime and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes

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work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed;

- e. "Meeting" means a meeting as defined in the Oklahoma Open Meeting Act;
- f. "Public body" means a public body as defined in the Oklahoma Open Meeting Act;
- g. "Public place" means an enclosed indoor area where individuals other than employees are invited or permitted;
- h. "Restaurant" means any eating establishment regardless of seating capacity;
- i. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device;
- j. "Stand-alone bar", "stand-alone tavern", and "cigar bar" mean an establishment that derives more than sixty percent (60%) of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under twenty-one (21) years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.
- k. "Tobacco", as used herein, includes, but is not limited to, smoking tobacco such as used in pipes, cigarettes and cigars, and chewing or dipping tobacco, such as snuff and chewing tobacco.

(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006; 2014 City Code) State law reference - O.S. Title 63, § 1-1522)

### **Sec. 12-252. Smoking in certain places prohibited-Exemptions**

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- A. Except as specifically provided in this Article, no person shall smoke in a public place, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is re-circulated to nonsmoking areas of the building.
- B.
  - 1. Except as otherwise provided in paragraph 2 of this subsection, an educational facility which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.
  - 2. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.
  - 3. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.
- C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the buildings or on the grounds of the facility.
- D. A private residence is not a "public place" within the meaning of this Article except that areas in a private residence that are used as a licensed child care facility during hours of operation are "public places" within the meaning of this Article.

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- E. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection F of this section or in a smoking room pursuant to subsection G of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake.
- F. This Article shall not prohibit smoking in:
1. Stand-alone bars, stand-alone taverns or cigar bars;
  2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
  3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;
  4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
  5. Workplaces where only the owner or operator, of the workplace, or the immediate family of the owner or operator, performs any work in the work place, and the workplace has only incidental public access;
  6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. "Incidental public

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access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;

7. Private offices occupied exclusively by *one* or more smokers;
  8. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
  9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(8), 501 (c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;
  10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and
  11. Medical research or treatment centers, if smoking is integral to the research or treatment.
- G. Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location, which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 63, § 1-1523.)

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### **Sec. 12-253. Measures to prevent smoking in public places.**

- (a) The person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:
  - (1) Post signs at entrances to places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco smoke; and
  - (2) Ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 63, § 1-1525.)

### **Sec. 12-254. Governing body may designate smoking and non-smoking areas in municipal facilities.**

- (a) All buildings, or portions thereof, that are owned and operated by the City, at the discretion of the City Council, may be designated as entirely nonsmoking or may be designated nonsmoking with one designated smoking room.
- (b) A smoking room as provided for in subsection (a) of this section:
  - 1. Shall not be used for the conduct of public business.
  - 2. Shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No smoking exhaust shall be located within twenty-five (25) feet of any entrance, exit or air intake.

(Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 21, § 1-1247.

### **Sec. 12-256. Penalty.**

Any person who knowingly violates any provision of this Article is guilty of an offense, and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars

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(\$100.00). (Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 21, § 1-1247.

**Sec. 12-257. Definitions.** The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- 1) *Indoor area*: means any indoor property owned or operated by the City, The Village Development Authority (“TVDA”), or The Village Public Works Authority (“VPWA”). An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees of the public, and all space between a floor and ceiling that is predominately or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.
- 2) *Outdoor area*: means any covered area, partially covered area or area open to the sky that is on property owned or operated by the City, TVDA, or VPWA.
- 3) *Recreational area*: means any area that is owned, controlled or used by the City, TVDA, or VPWA and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes, but is not limited to, parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trail, swimming pools, roller and ice-skating rinks, and skateboard parks.
- 4) *Smoking*: means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- 5) *Smoke free*: means to prohibit the use of combustible tobacco products by anyone, anywhere, at any time.

**Sec. 12-258. Prohibition on Smoking and the possession of lighted tobacco on property owned or operated by the City of The Village, The Village Development Authority, and the Village Public Works Authority.**

- 1) All buildings and other property, including, without limitation, Indoor areas, Outdoor areas, and Recreational areas, vehicles and

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equipment, owned or operated by the City, TVDA, and VPWA shall be entirely Smoke free.

- 2) Smoking and the possession of lighted tobacco in any form are prohibited in all buildings and on all property owned or operated by the City, TVDA, and VPWA, including, without limitation, Indoor areas, Outdoor areas, Recreational areas, vehicles and equipment.
- 3) The prohibition on smoking described herein shall not apply to public streets, rights-of-way, and sidewalks.

State law reference: O.S. Title 21, §1247 (C)

### **Sec. 12-259. Posting.**

- 1) The City shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance of each City, TVDA and/or VPWA owned or operated building indicating the property is smoke free.
- 2) The posting of signs or decals shall be the responsibility of the manager and/or supervisor of the City, TVDA and/or VPWA owned or operated facility.

**Sec. 12-260. Violation and Penalty.** Any person who knowingly violates Section 12-258 of the Code is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00).

### **Sec. 12-261. Enforcement.**

The State and local governmental agencies are authorized to do the following in order to prevent Smoking in City, TVDA, and VPWA owned or operated places:

- a) Post signs at entrances to City, TVDA and VPWA owned and operated buildings and parks which state that smoking is not permitted; and
- b) Ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

## **Article XI. Remediation of Methamphetamine Labs**

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### **Sec. 12-300. Legislative Intent.**

The contamination present in former methamphetamine labs can affect soil, ground water, air, furniture, and structure materials, such as flooring, vents, and walls. Many of the contaminants present during the methamphetamine manufacturing process can be harmful if humans or pets are exposed to them. The contaminants can cause health problems, including headaches, nausea, dizziness, and skin and eye irritation and burns. Short-term exposures to high concentrations of some of these chemicals are common to first responders, such as fire departments or law enforcement officers first entering a lab. These exposures may cause severe health problems including lung damage and chemical burns to the body. This Article is intended to provide the regulations deemed necessary to protect the public from the serious public health threats posed by methamphetamine residues.

### **Sec. 12-301. Identification of public health threat, testing, remediation.**

- a) Any property or premises located in the City shall be considered a potential threat to public health when chemicals and equipment used in the production of methamphetamines have been seized by a local, state, or federal law enforcement agency on the property.
- b) The property owner of any such property shall take appropriate steps to detect and remove chemical residues left by the production of methamphetamines, including but not limited to the following:
  - 1) **Testing:** After law enforcement agencies have completed their investigation and hazardous materials cleanup of the subject property, the owner of said property shall be responsible for engaging the services of a qualified environmental testing company to determine if harmful levels of contamination remain on the property. The environmental testing company selected shall be subject to the approval by the City.
  - 2) **Contamination Limits:** The property owner shall perform cleanup of the property as provided below if tests performed by said environmental testing company detect on said property contamination levels of more than five micrograms of methamphetamine residue per square foot.
  - 3) **Remediation:** Upon a finding that more than five micrograms of methamphetamine residue are present on said property, the

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property owner shall be responsible for the following:

- i. **Air out the structure** - suitably ventilate the property for several days before cleaning. The property owner shall open all the building's windows and set up exhaust fans to circulate air out of the house. During this time, the property shall remain off limits unless it is necessary to make short visits to the property. After the initial airing out, the property owner shall maintain good ventilation throughout the property's cleanup.
- ii. **Contamination removal and disposal:**
  - a) Remove from the property all surfaces that are visibly contaminated, discolored or stained and dispose of them in an approved landfill.
  - b) Remove and dispose of in an approved landfill any absorbent materials, such as carpet and pad, drapes, and clothing that can accumulate the vapors dispersed through the air during the methamphetamine production process.
  - c) Thoroughly clean all surfaces, such as walls, counters, floors, and ceilings, etc. where the methamphetamine production process was conducted.
  - d) If a surface has visible contamination or staining, completely remove and replace that surface section. This could include removal and replacement of wallboard, floor coverings, and counters. If this is not possible, intensive cleaning, followed by the application of a physical barrier such as paint or epoxy shall be required.
  - e) Replace all of the air filters in the ventilation system and/or heating and cooling system; remove and clean vents, clean the surfaces near system inlets and outlets, and clean the ventilation system's ductwork in order to ensure that vapors and residues are properly removed from these areas.
  - f) If a strong chemical odor is coming from household plumbing, contact a plumbing contractor for professional drain/pipe cleaning assistance.

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- g) Surfaces in areas where contamination was found or suspected shall be cleaned and painted when possible so as to provide a barrier between the contamination and anyone who may come in contact with those surfaces.
- 4) **Certification.** Prior to obtaining an occupancy permit for any property considered to be a potential threat to public health as provided herein, the property owner shall provide the City with proper evidence and documentation that methamphetamine residues on said property do not exceed five micrograms per square foot. It shall be unlawful for any person to occupy or to allow any person to occupy any such property that is not certified by the city for human occupancy.

### **Sec. 12-302. Duty to disclose to tenants.**

The owner of any property considered a potential threat to public health as provided by this Article shall disclose to any prospective renter or occupant of the property, the prior existence of a methamphetamine manufacturing operation on said property.

### **Sec. 12-303. Penalty.**

Any person who violates any provision of this Article shall, upon conviction, be guilty of a Class A offense and shall be subject to a fine not to exceed Seven Hundred and Fifty Dollars (\$750.00) and up to sixty (60) days imprisonment, or both said fine and imprisonment. Every day that a violation exists shall be deemed a separate offense.