

# **TITLE 1**

## **GENERAL PROVISIONS**

### **Chapters:**

- 1.04 How Code is Designated and Cited
- 1.08 Rules of Construction
- 1.12 Subheadings of Sections
- 1.16 Effect of Repeal of Ordinances
- 1.20 Severability of Parts of Code
- 1.24 Amendments to Code
- 1.28 Altering Code
- 1.32 General Penalty
- 1.36 Referendum Petitions
- 1.40 Numbering System for City Ordinances

### **Chapter 1.04**

#### **How Code Is Designated And Cited**

### **Sections:**

- 1.04.01 How code is designated and cited

#### **1.04.01 How code is designated and cited**

The ordinances embraced in the following chapters and sections shall constitute and be designated “The Osceola Municipal Code”, and may be so cited.

State law reference – See A.C.A. 14-55-701-, *et seq.*

## Chapter 1.08

### Rules of Construction

#### Sections:

1.08.01 Rules of construction

#### **1.08.01 Rules of construction**

In the construction of this code, and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Board.

**Board of Directors** Whenever the words “Board of Directors” or “Board” are used, they shall be construed to mean the Board of Directors of the city of Osceola, Arkansas.

**City** The words “the city” or “this city” shall mean the city of Osceola, Arkansas.

**County** The words “the county” or “this county” shall mean the county of Clark, Arkansas.

**Gender** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

**Municipality** The words “the municipality” or “this municipality” shall mean the city of Osceola, Arkansas.

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

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

**Or, And** “Or” may be read “and”, and “and” may be read “or” if the sense requires it.

**Other city officials or officers** Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., “Mayor”, etc., they shall be deemed to refer to the officials, boards, commissions and departments of the city of Osceola, Arkansas.

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

**Sidewalk** The word “sidewalk” means a strip of land in front or on the side of a house or lot of land lying between the property line and the street.

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

**State law reference:** A.C.A. refers to the Arkansas Code Annotated which are the laws passed by the General Assembly of the state of Arkansas.

**Street** The word “street” shall be construed to embrace streets, avenues, boulevards, roads alleys, lines, viaducts and all other public highways in the city.

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

## **Chapter 1.12**

### **Subheadings of Sections**

Section:

1.12.01            Subheadings of Sections

#### **1.12.01 Subheadings of sections**

The subheadings of sections of this code which are underlined, are intended merely to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the subheadings, are amended or reenacted.

## **Chapter 1.16**

### **Effect of Repeal Of Ordinances**

Section:

1.16.01          Effect of repeal of ordinances

#### **1.16.01 Effect of repeal of ordinance**

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

## **Chapter 1.20**

### **Severability of Parts of Code**

Section:

1.20.01          Severability of parts of code

#### **1.20.01 Severability of parts of code**

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

## **Chapter 1.24**

### **Amendments to Code**

#### Sections:

1.24.01          Amendments to code

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

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

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

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

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

## Chapter 1.28

### Altering Code

#### Sections:

1.28.01          Altering code

#### **1.28.01 Altering code**

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

## Chapter 1.32

### General Penalty

#### Sections:

1.32.01          General penalty

1.32.02          Commitment to jail for failure to pay fine

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

1.32.02 Commitment to jail for failure to pay fine Whenever a fine is imposed upon any person for a violation of any provision of this Code or other ordinance of the city and is not paid, the party convicted shall by order of the court, or on process issued for the purpose, be committed to jail until such fine and the costs of prosecution are paid or the party is discharged by due course of law.

State law reference – See A.C.A. 14-55-504, 14-55-602

## Chapter 1.36

### Referendum Petitions

#### Sections:

|         |                                   |
|---------|-----------------------------------|
| 1.36.01 | Filing date                       |
| 1.36.02 | Notice of hearing                 |
| 1.36.03 | Board of Directors calls election |
| 1.36.04 | Upon defeat of ordinance          |

#### **1.36.01 Filing date**

- A. As to referendum petitions under Amendment No. 7 to the Constitution of the state of Arkansas, the time for filing shall not be less than thirty days nor more than ninety days after the passage of such measure by a municipal council;
- B. Except for a municipal referendum petition concerning a municipal bond, a sponsor shall be given sixty (60) days to circulate a municipal referendum petition.

#### **1.36.02 Notice of hearing**

Whenever any referendum petition is filed the Board of Directors shall give notice by publication for one insertion of a time not less than five (5) days after the publication of such notice at which they will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named the Board of Directors shall meet and hear all who wish to be heard on the question, and its decision shall be final, unless suit is brought in the County Court of Clark County within thirty (30) days to review its action.

#### **1.36.03 Board of Directors call election**

If the Board of Directors finds that such petition is signed by the requisite number of petitioners, it may order a special election or place the question on the ballot at the next Municipal General Election to determine by vote of the qualified electors whether the ordinance shall stand or be revoked. The date for any special election shall be set not less than ten (10) days after the order therefore has been made by the Board, and said special elections shall be had and conducted as general municipal elections held in the city of Osceola.

#### **1.36.04 Upon defeat of ordinance**

If any ordinance referred to the people is defeated at the polls, the city shall make a

note of such fact and shall expunge such ordinance from its files.

State law reference – See Const., Amend No.7 and A.C.A. § 14-47-124



## TITLE 2

### CLASSIFICATION, ADMINISTRATION

### AND PERSONNEL

#### Chapters:

- 2.04 City Council
- 2.08 Police Department
- 2.12 City Administration
- 2.16 Community Improvement Commission

#### **Chapter 2.04**

#### **City Council**

#### Sections:

- 2.04.01 Election by Ward
- 2.04.02 Council Procedure
- 2.04.03 Special Meetings
- 2.04.04 Wards

#### **2.04.01 Election by Ward**

1. That hereafter, all City Council Members in the City of Osceola, Arkansas be elected by ward, that two City Council Members shall be elected to represent each ward, and that each City Council Member shall be voted upon by the qualified electors of the ward from which such person is a candidate and that the name of such candidate shall appear upon the ballot only in the ward in which such person is a candidate for election. Ord. No. 1984-585.

2. That the effect of the within Ordinance shall first be implemented in the primary elections held in 1984. Ord. No. 1984-585.

#### **2.04.02 Council Procedure**

1. The procedural rules of Section A, Chapter Five (5) of the Handbook for Arkansas Municipal Officials published by the Arkansas Municipal League, copyrighted July 1966, Sections 5-2 through and including Section 5-24 be and hereby are adopted and incorporated herein by reference as though set out herein word for word, as the procedural rules governing the meetings of the City Council of the City of Osceola, Arkansas, the commissions, agencies and authorities thereof, save and except the verb "should" in each instance used in

Section 5-10 of said Section A be and is hereby deleted and in place thereof the verb “shall” is substituted thereof. Ord. No. 406.

2. That the City Clerk be and hereby is directed to record verbatim as adopted herein said Rules in the minutes of the meeting at which this Ordinance is adopted, and that a copy of said Procedural Rules be delivered to each and every commission, agency, and authority of the City of Osceola. Ord. No. 406.

#### **2.04.03 Special Meetings**

1. The Mayor of the City of Osceola, or any three (3) aldermen, may call special meetings for taking up of such business as may be necessary by giving notice of such special meeting or meetings in writing to a number of aldermen constituting a majority of the whole number of aldermen composing the City Council. Ord. No. 313.

2. A majority of the whole number of aldermen shall be necessary to constitute a quorum for the transaction of business. Ord. No. 313.

#### **2.04.04 Wards**

Section 1. That the City of Osceola, Arkansas is hereby divided into three wards, each of which shall have representation in the City Council as now provided by law, said wards shall be known as 1st Ward, 2nd Ward and 3rd Ward. Ord. No. 2002-779.

Section 2. That the City Council does hereby adopt the Proposed Ward Boundaries Map, a copy of which is on file at the Office of the City Clerk, and does hereby declare that the boundaries of said wards are as designated on said map attached hereto as Exhibit "A" and incorporated herein by reference as if specifically set forth herein. Ord. No. 2002-779.

Section 3. That the city Clerk is hereby directed to publish a copy of said map as a part of this Ordinance for the time and in the manner required for publication of Ordinances. Ord. No. 2002-779.

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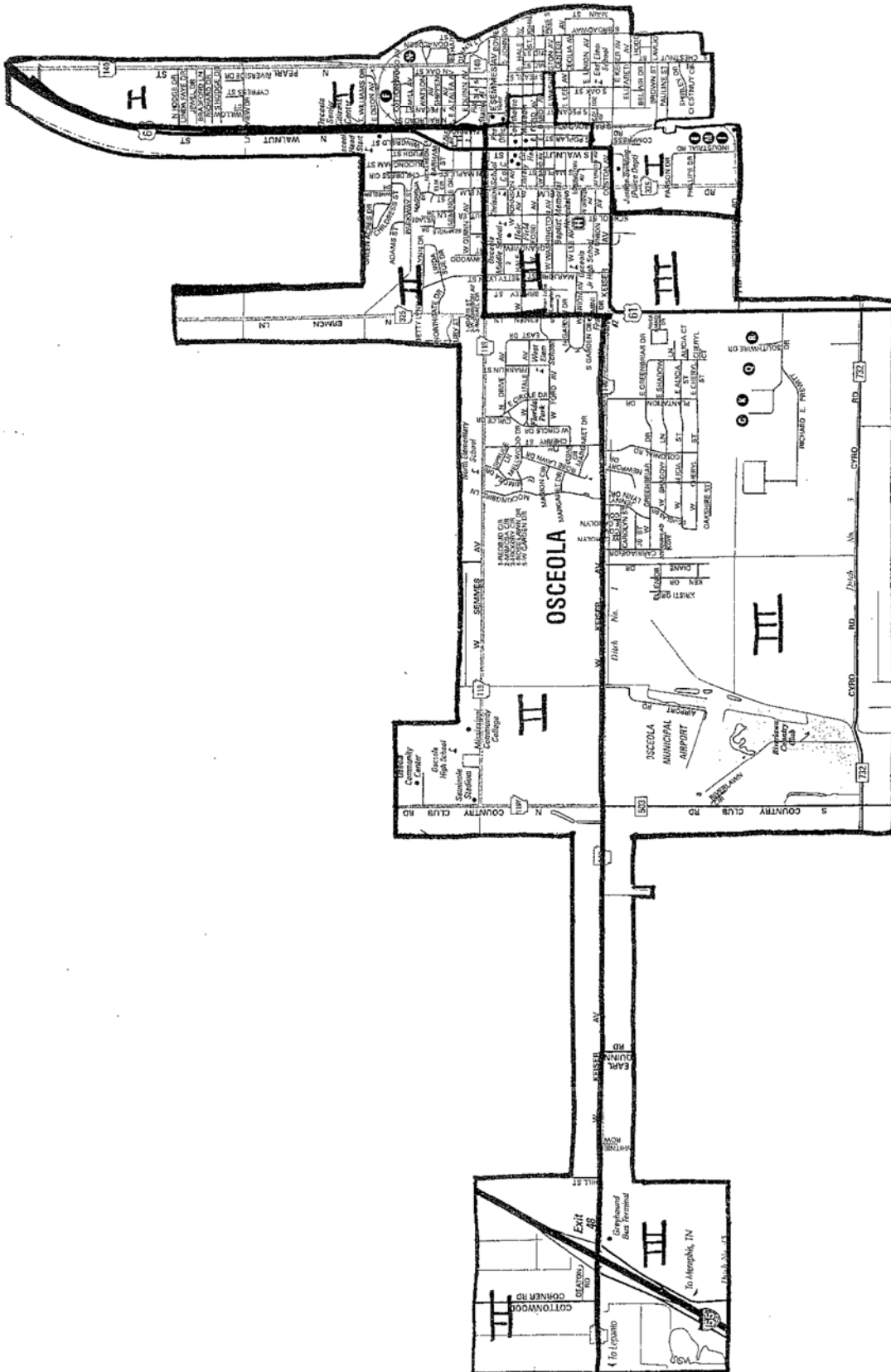


EXHIBIT "A"

## Chapter 2.08

### Police Department

#### Sections:

|         |                    |
|---------|--------------------|
| 2.08.01 | Department Created |
| 2.08.02 | Police Pension     |
| 2.08.03 | Auxiliary Police   |
| 2.08.04 | Police Fees        |
| 2.08.05 | Misc. Fees         |

#### **2.08.01 Department Created**

1. That there be and is hereby created a Police Department for the City of Osceola, Arkansas, under the general superintendence of the Mayor of the City of Osceola. Ord. No. 264.

2. That the said Police System of the City of Osceola shall consist of the Chief of Police, and at least two additional policemen. Ord. No. 264.

3. That the Mayor, by and with the consent of the City Council, shall have the power to increase the membership of said Police Department by the addition of more members of the department from time to time as may be required for the proper policing of said City. Ord. No. 264.

4. That any person who shall or may be appointed to the Police Department shall be retained as a member thereof at the will and pleasure of the City Council, and for any misconduct in office or nonfeasance may be suspended by the Mayor and upon a proper hearing before the Police Committee be removed from office, pending a final hearing and disposition of such case by the City Council. Ord. No. 264.

#### **2.08.02 Police Pension**

1. The City of Osceola Policemen's Pension and Relief Fund is hereby established. Ord. No. 457.

2. The Board of Trustees for the City of Osceola Policemen's and Relief Fund shall be composed of the Chairman of the Police Committee, the City Treasurer, who shall be the treasurer of the said fund, a member of the police department to be elected by the members of the Department, and two other members to be selected by these three, one of which shall be a reputable physician. Ord. No. 457.

3. The Board of Trustees for the City of Osceola Policemen's Pension and Relief Fund is hereby given and assigned all power and responsibilities that have been established for Trustees of Policemen's Pension and Relief Funds by Arkansas law. Ord. No. 457.

4. The City Clerk and the City Treasurer are hereby directed and ordered, as of January 1, 1973, to add the following moneys to the Policemen's Pension and Relief Fund:

- A. All forfeitures and fines imposed from time to time upon any member of the police department by way of discipline.
- B. All money given or donated to such fund
- C. All money deducted from the salary of any member of the police department n account of absence or loss of time
- D. One-half of all rewards paid for any purpose.
- E. Ten per cent of all fines and forfeitures collected by the police department of such city for violation of city ordinances.
- F. Four percent of the monthly salary of each full time member of the police department.
- G. One Dollar (\$1.00) penalty for each conviction of a moving traffic violation.
- H. Monies derived from the one mill tax. Ord. No. 457.

### **2.08.03 Auxiliary Police**

1. There is hereby created a volunteer police force designated as the “Osceola Auxiliary Police” and shall be composed of voluntary membership not to exceed thirty (30) members; said members shall be headed by the Chief of Police, City of Osceola, hereinafter designated as the “Chief.” They shall be part-time employees of the City of Osceola, Arkansas Police Department, but shall not be included under the retirement system of the City of Osceola. Ord. No. 1975-480.

2. The Chief may by order diminish or expand the membership of the Osceola Auxiliary Police, as may in his judgement be required, within the limit herein established. Ord. No. 1975-480.

3. The Chief shall have the complete authority, control and command over the Osceola Auxiliary Police, subject to the provisions of this ordinance. He may appoint as members thereof any person he may consider qualified and may reject any applicant for membership. He shall provide for the training of candidates for membership and for the further training of members. Ord. No. 1975-480.

4. No person shall be considered a member of the Osceola Auxiliary Police until he has been duly appointed by the Chief, registered on a roster kept by the Chief, and until he has taken the oath provided for officers of the Osceola Police Department. Persons eligible for membership shall be no less than twenty-one (21) years nor more than forty-five (45) years of age and shall be citizens of the United States, residents of Mississippi County, Arkansas, and of excellent character and reputation. They shall be in excellent physical condition, mentally stable, and suffer from no ailment or disability which would limit or prevent them from engaging in strenuous exercise or the use of firearms. Restrictions and regulations as to age and physical condition may be waived only at the discretion of the Chief in these cases involving special qualification, abilities, and aptitude in the best interest of the Osceola Police Department. Ord. No. 1975-480.

5. Membership of any person may be terminated at the will and pleasure of the Chief. Any member may resign from the Osceola Auxiliary Police at any time, but it shall be his duty to notify the Chief in writing of his resignation. Ord. No. 1975-480.

6. In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the Osceola Auxiliary Police, and any breach of the rules and regulations established by the Chief shall subject any member to summary dismissal, and the fact thereof may be published at the order of the Chief. Ord. No. 1975-480.

7. The Chief shall prescribe the uniforms, badges and insignia for members of the Osceola Auxiliary Police and the manner in which the same shall be worn. Members shall themselves furnish at no expenses to the City, uniforms and equipment. It shall be a misdemeanor, punishable by fine not to exceed fifty dollars (\$50.00), for anyone not a member in good standing of said force to wear or use the uniforms, badge or insignia so prescribed. Ord. No. 1975-480.

8. An identification card and such other insignia or evidence of identity as the Chief may prescribe shall be issued to each member who must carry such identification at all times while on duty, and he must surrender them upon the termination of his membership. Ord. No. 1975-480.

9. It shall be a misdemeanor punishable by fine not exceeding fifty dollars (\$50.00) for any person to wear, carry or display an Osceola Auxiliary Police, unless he is in fact a member thereof in good standing. Ord. No. 1975-480.

10. The duties of the Osceola Auxiliary Police, subject at all times to the direction, supervisions and control of the Chief, shall be to assist the regular members of the Police Department in enforcement of the law and maintenance of peace and order at such time provided for and designated by the Chief. The Chief shall establish rules and regulations to govern the Osceola Auxiliary Police, to fix the specific duties of its members and provide for maintenance of discipline. He may change such orders from time to time, provided no member shall in any manner perform any act as a member of the Osceola Auxiliary Police unless he is designated for duty as such member at the time. The Chief may prescribe other duties than those mentioned herein to be performed by the Osceola Auxiliary Police, not inconsistent with the provisions hereof. Ord. No. 1975-480.

11. The Chief shall, upon passage of this ordinance, designate one member of the Osceola Auxiliary Police to be its commander. The commander will serve at the will and direction of the Chief of Police. Ord. No. 1975-480.

12. Members of the Osceola Auxiliary Police shall be authorized while on official duty as members of said auxiliary to carry firearms as prescribed by the rules and regulations as set forth by the Police Chief of Osceola, Arkansas. Ord. No. 1975-480.

#### **2.08.04 Police Fees**

The following fees shall be charged by the Police Department of the City of Osceola, Arkansas:

For serving every summons, capias, scire facias, attachment, writ of garnishment, writ of injunction, or subpoena \$30.00

For every, return of a writ, summons or subpoena, original or judicial \$20.00

For serving each order, notice, or rule of any court \$30.00

For serving each notice to vacate \$30.00

For serving warrant or order or arrest from any court \$50.00

For taking and entering every bail or delivery bond \$20.00

For attending every trial of a criminal or civil case \$20.00

For serving subpoena for special jurors \$20.00

Ord. No. 2001-773.

## **2.08.05 Misc. Fees**

### **1. Ord. No. 2003-793**

- A. That pursuant to Act 1188 of 2003 of the General Assembly of the State of Arkansas, an additional fine of Five Dollars (\$5.00) shall be levied and collected from each defendant who pleads guilty or nolo contendere to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the District Court of Osceola, Arkansas.
- B. The additional fine levied by the City under this Ordinance shall be deposited in a special fund within the City Treasury, and the revenues generated by the additional fine shall be used exclusively for maintenance, operation, and capital expenditures of the Osceola Detention facilities.
- C. Revenues derived for the additional fines levied under this Ordinance shall not offset or reduce funding from other sources for maintenance, operation, and capital expenditures of the Osceola Detention facilities.

### **2. Ord. No. 2009-866**

- A. There is hereby levied an additional fine in the amount of \$20.00 from each Defendant, who pleads guilty or nolo contendere to or is found guilty of or forfeits bond for any misdemeanor or traffic violation in the Mississippi County District Court, Osceola District.
- B. The funds generated by this additional \$20.00 fine shall be used exclusively to help defray the cost of incarcerating prisoners of the City of Osceola, Arkansas, including the construction or maintenance of the city jail and payments to other entities for incarcerating city prisoners.

### **3. Ord. No. 2013-908**

- A. The charge to Law enforcement agencies located within Mississippi County, Arkansas for housing their inmates at the Osceola Justice Complex shall be \$40.00 per day.
- B. The charge to all other law enforcement agencies located outside Mississippi County, Arkansas, shall be \$50.00 per day.
- C. All agencies housing inmates at the Osceola Justice Complex will be required to provide all medical and transportation needs for their inmates.
- D. Failure of the law enforcement agencies to keep their accounts current as to payment of charges shall be grounds for the City of Osceola, Arkansas, to refuse to accept other inmates for housing for the particular agency and shall also be grounds for returning the housed inmates to the law enforcement agency.

**4. Ord. No 1983-576**

- A. In addition to all other Court costs now or as may hereafter be provided by law or Ordinance, there shall be levied and collected from each Defendant, upon each plea of guilty, nolo contendere, forfeiture of bond or determination of guilt for misdemeanors or traffic violations in the Municipal Court for the City of Osceola, Arkansas, the sum of \$5.00.
- B. There is hereby created a fund in the City Treasury of the City of Osceola, Arkansas that shall be known as the "Criminal Justice Fund". Said "Criminal Justice Fund" shall be financed solely from the additional Court costs levied in accordance with Section 1 of this Ordinance, and all such Court costs levied in accordance with Section 1 of this Ordinance shall be deposited in the City Treasury of the City of Osceola, Arkansas and credited to the "Criminal Justice Fund".
- C. All funds levied as additional Court costs pursuant to Section 1 of this Ordinance and credited to the "Criminal Justice Fund" shall be used solely for reimbursing the County for expenses incurred in incarcerating City prisoners or to reimburse the City for keeping prisoners in the City Jail.
- D. The Mayor, or his designee, shall be and is hereby authorized to promulgate such rules and regulations as are deemed necessary, in compliance with the laws of the State of Arkansas and the City of Osceola, Arkansas, for the dispersal and accounting of said funds credited to the "Criminal Justice Fund".



## Chapter 2.12

### City Administration

#### Sections:

|         |                |
|---------|----------------|
| 2.12.01 | City Treasurer |
| 2.12.02 | City Attorney  |
| 2.12.03 | Mayor          |
| 2.12.04 | DOT Rules      |

#### **2.12.01 City Treasurer**

- A. That effective January 1, 1985, the Office of City Treasurer of the City of Osceola, Arkansas, shall no longer be an elective office and that said position shall not be placed on the ballot for any municipal election of officers for said City. Ord. No. 1984-583.
- B. That the office of City Treasurer of the City of Osceola, Arkansas shall hereafter be filled by appointment made by the Mayor of the City of Osceola with the approval of the City Council. That the term of said appointment shall be for the same term as that of the Mayor making the appointment. Ord. No. 1984-583.
- C. That the salary for the Office of City Treasurer of the City of Osceola, Arkansas shall be such sums and payable upon such terms as shall be determined by the Mayor of the City of Osceola with the approval of the City Council at the time of making the appointment. Ord. No. 1984-583.

#### **2.12.02 City Attorney**

1. The City Attorney and City Clerk of Osceola, Arkansas, shall receive as a salary that amount which is included as the salary for these positions in the budget annually adopted by the City Council of Osceola, Arkansas. The City Attorney shall perform all legal functions which are required by the City of Osceola, Arkansas. The City Clerk shall perform those duties assigned by the City Council. Further, in the event the City of Osceola, Arkansas, becomes involved in civil litigation, either as Plaintiff or Defendant, the City Council may agree, through resolution, to provide additional salary to the City Attorney for representing the City in such civil litigation at an hourly rate to be set by the City Council. Ord. No. 1994-701.
2.
  - A. **Retirement Benefits-City Attorney.** Any person who shall serve as City Attorney of the City of Osceola, Arkansas, for a period of not less than ten (10) years, upon reaching age sixty (60), or any person who shall serve as City Attorney for a period of not less than twenty (20) years, without regard to age,

shall be entitled to retire at an annual retirement benefit during the remainder of his or her natural life, payable at the rate of one-half (1/2) of the salary payable to the City Attorney at the time of his or her retirement. The incumbent City Attorney at the time of passing this Ordinance shall receive credited service toward the vesting period for the retirement benefits from the date of his initial employment with the City. Ord. No. 2009-868.

- B. **Frequency of Payment and Source of Payment.** All payments of retirement benefits shall be payable monthly and shall be paid from the general funds of the City. Ord. No. 2009-868.

### **2.12.03 Mayor**

- A. Pursuant to Act 305 of 1985 of the Arkansas General Assembly, the City Council does hereby provide retirement benefits to surviving spouses on the death of the mayor and/or a retired mayor. Ord. No. 1990-633.
- B. Any former Mayor who has retired and is receiving the benefits provided by Ark. Code. Ann. Section 24-12-123, once he or she has been retired for at least twelve (12) full months, will receive three percent (3%) cost of living increase on January 1 of each year. Ord. No. 2010-873.

### **2.12.04 DOT Rules**

1. That all personnel policies of the City of Osceola are hereby revised and amended to incorporate the 1994 DOT Final Rules.
2. That this ordinance specifically amends any personnel policy providing for conditions of employment for employees whose duties require them to maintain a Commercial Driver's License in order to lawfully carry out their duties.
3. Any Ordinance, Resolution, Rule, Regulation or part of any Ordinance, Resolution, Rule, Regulation now in effect which conflicts with the Rules is hereby repealed.
4. The Human Resource Director is hereby directed to establish procedures to ensure compliance with the Rules, including the assignment of a Designated Representative responsible for the execution of the procedures.
5. Any laboratory, medical review officer, substance abuse professional or any other professional who receives payment for testing, evaluating, record-keeping, or other services mandated by the Rules must be qualified according to the Rules and must perform such services in conformance with 49 CFR Part 40 and Part 382.

6. Drug and alcohol testing will be administered to those employees mandated by the Rules, in the circumstances and in the manner mandated by the Rules.
7. The penalty for refusal to take a mandated test for drugs or alcohol is immediate discharge.
8. The penalty for a positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge.
9. The penalty for a positive alcohol test result is immediate discharge.
10. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the Human Resource Director receives the results of the second test. Such second test will be at the employee's expense.
11. A negative result from the second drug test will render the first test invalid and the employees will be reinstated with back pay and reimbursement for the costs of the second test.
12. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty as established by the Rules, or who is involved in an accident as defined in 40 CFR 390.4 by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the Human Resource Director. Ord. No. 1995-713.

## **Chapter 2.16**

### **Community Improvement Commission**

#### Sections:

2.16.01 Community Improvement Commission

#### **2.16.01 Community Improvement Commission**

1. That the Osceola Community Improvement Commission is hereby created and established. The Commission shall consist of eight (8) members appointed by the Mayor of the City, subject to confirmation by the Osceola City Council. The members shall serve at the pleasure of the Mayor of the City until their successors are duly appointed and qualified. The members shall be electors of such municipality holding no salaried or elective municipal office. All members shall serve without compensation. The Commission shall elect a Chairman, Vice-Chairman, and Secretary annually from its membership. Members may serve on other municipal board of commissions. Ord. No. 2005-817.
2. The primary purpose of the Osceola Community Improvement Commission is to work with businesses, residence owners, and other community boards, commissions, schools and other entities to improve the appearance and image of the City of Osceola, Arkansas. However, the Osceola Community Improvement Commission should not and shall not attempt to address social issues effecting the City of Osceola, Arkansas. The responsibilities of the Osceola Community Improvement Commission would include, but not be limited to identifying areas that are in violation of existing city ordinances. Power and authority to enforce existing city ordinances rests and shall remain with the Code Enforcement Officers of the City of Osceola, Arkansas. The Osceola Community Improvement Commission is purely an advisory commission with no power or authority to act on its own. Ord. No. 2005-817.
3. The City Council has found and determined that the creation and establishment of the Osceola Community Improvement Commission is essential to improving the appearance and image of the City of Osceola. Ord. No. 2005-817.

## **TITLE 3**

### **FISCAL AFFAIRS**

#### **Chapters:**

- 3.04 Purchases
- 3.08 Taxes
- 3.12 City Officials Doing Business with City

#### **Chapter 3.04**

#### **Purchases**

#### **Sections:**

- 3.04.01 Purchases under \$5,000
- 3.04.02 Purchases over \$5,000
- 3.04.03 Bill Payments
- 3.05.04 Property Exchanges

#### **3.04.01 Purchases under \$5,000**

The Mayor, or his duly authorized representative, shall have exclusive power and responsibility to make purchases of all supplies, apparatus equipment, materials and other things requisite to public purposes for the City of Osceola and to make all necessary contracts for work or labor to be done, or material or other necessary thing to be furnished for the benefit of the City where the amount of the expenditure for any purchase or contract does not exceed the sum of Five Thousand Dollars (\$5,000.00). Ord. No. 1985-601.

#### **3.04.02 Purchases over \$5,000**

Where the amount of expenditure, for any purchase or contract exceeds the sum of Five Thousand Dollars, (\$5,000.00), the Mayor, or his duly authorized representative shall invite competitive bids thereon by legal advertisement in any local newspaper. Bids received pursuant to said advertisement shall be opened and read on the date set for receiving said bids in the presence of the Mayor, or his duly authorized representative. The contract shall be awarded to the lowest responsible bidder, provided, however, the Mayor or his duly authorized representative, may reject any and all bids received. Ord. No. 1985-601.

#### **3.04.03 Bill Payments**

The Mayor, or his duly authorized representative, may approve for payment out of any funds previously appropriated for that purpose, or disapprove any bills, debts or liabilities asserted as claims against the city when funds on hand are adequate to pay such bills, debts, or

liabilities. That the payment or disapproval of any bill, debts or liabilities not covered by a previous appropriations shall require confirmation of the governing body. Ord. No. 1985-601.

### **3.04.04 Property Exchanges**

That the Mayor, or his duly authorized representative, may sell or exchange any municipal supplies, materials or equipment without competitive bidding if such supplies, materials or equipment have a value of less than Five Thousand Dollars (\$5,000.00). That no supplies, materials or equipment shall be sold without receiving competitive bids therefor if the value thereof exceed the sum of Five Thousand Dollars (\$5,000.00); provided, however, if the Mayor shall certify in writing to the governing body that, in his position, the fair market value of such item or lot (to be disposed of in one unit) is less than Five Thousand Dollars (\$5,000.00), the same may be sold by the Mayor without competitive bidding. Ord. No. 1985-601.

## **Chapter 3.08**

### **Taxes**

#### Sections:

|         |                     |
|---------|---------------------|
| 3.08.01 | Single Transactions |
| 3.08.02 | Sales and Use Tax   |
| 3.08.03 | A&P Tax             |

### **3.08.01 Single Transaction**

Defining Single Transaction. The term "single transaction", for the purposes of the local sales tax, shall be defined according to the nature of the goods purchased, as follows:

- A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including, but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water-vessels; motor vehicles or nonmotorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purposes of the local sales tax.
- B. The charges for utility services, which are subject to the taxes levied under this Ordinance, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, for the purposes of the local sales tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the local sales tax.
- C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the local sale tax, shall be

deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the State.

- D. When two or more items or major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the local sales tax.
- E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this Section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the State. Ord. No. 1983-578.

### **3.04.02 Sales and Use Tax**

1. Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. § 26-52-101, et seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. § 26-53-101, et seq. at a rate of one percent (1%) of the sale price of the property, or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). Ord. No. 2013-899.

- 2.
  - a. Under the authority of the Authorizing Legislation, there is hereby levied a 0.125% tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52-101, et seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.), at a rate of 0.125% of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and required rebates shall be used for one or more of the following: (a) to pay and secure the repayment of bonds approved by the voters and issued by the City from time to time to finance capital improvements and (b) to acquire, construct, improve, expand, equip, furnish, operate and maintain park and recreational facilities. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitations as required for certain single transactions as from time to time required by Arkansas statutes.

- b. The Sales and Use Tax shall expire on December 31, 2026. Ord. No. 2015-8.

### **3.04.03 A&P Tax**

#### **1. Definitions**

For the purpose of this ordinance, the following terms are defined:

"Hotel, motel, or short-term condominium rental accommodations" shall mean the renting, leasing or otherwise furnishing of accommodations for sleeping, meeting, or party room facilities for profit in the City of Osceola, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more. Ord. No. 2007-837.

#### **2. Tax Imposed**

There is levied upon every firm, person, or corporation a tax of two and one-half percent (2.5%) upon the gross receipts or gross proceeds from renting, leasing, or otherwise furnishing hotel, motel or short-term condominium rental accommodations for sleeping, meeting, or party room facilities for profit in the City of Osceola, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty days or more. Ord. No. 2007-837.

#### **3. Collection Of Tax**

(a) From the effective date of the levying ordinance, the tax so levied shall be paid by the persons, firms, and corporations liable therefore and shall be collected by the advertising and promotion commission of the City of Osceola, Arkansas or by a designated agent of the commission in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(b) The person paying the tax shall report and remit it upon forms provided by the commission, and as directed by the commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and the Arkansas Tax Procedure Act, § 26-18-101, et seq., shall, so far as practicable, be applicable with respect to the practicable, be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of this subchapter.

However, the administration and enforcement, and all actions, shall be by, and in the name of, the commission through the proper commission officials or agents. The commission shall have the authority to sue and be sued in its name. The Department of Finance and Administration shall have no authority to enforce or collect the tax levied pursuant to this subchapter.

(c) The City of Osceola, Arkansas authorizes and enables the commission or its agent to enforce the tax through examination of records, notices of proposed and final assessment, and administrative hearings on proposed assessments. The City of Osceola, Arkansas also authorizes and enables the commission to:

(1) Assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum.

(2) Assess unpaid or unreported tax within three (3) years of the date the tax is due.

(3) Provide for judicial relief from proposed assessments in accordance with subsection (d) of this section.



- (4) Issue certificates of indebtedness in accordance with subdivision (3) of this subsection.
- (d) (1) Within thirty (30) days of the issuance of the notice and demand for payment of a deficiency in tax established by a final determination of the hearing officer, taxpayer may seek judicial relief from the final determination by either:
- (A) Paying under protest the amount of the deficiency, plus penalty and interest determined by the commission to be due, and filing a suit to recover that amount within one (1) year from the date of payment under protest; or
  - (B) (i) Filing with the commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the commission's determination.
  - (ii) The bond shall be subject to the condition that the taxpayer shall file suit within thirty (30) days after filing the bond, shall faithfully and diligently prosecute the suit to a final determination, and shall pay any deficiency found by the court to be due and any court costs assessed against him.
  - (iii) A taxpayer's failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs, as required by this subsection, shall result in the forfeiture of the bond in the amount of the assessment and assessed court costs.
- (2) The method provided in this section is the exclusive method for seeking relief from a written decision of the commission establishing a deficiency in tax. No injunction shall issue to stay proceedings for assessment or collection of this tax.
- (e) (I) If a taxpayer does not timely and properly pursue his remedies seeking relief from a decision of the commission and a final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the commission shall, as soon as practicable thereafter, issue to the circuit clerk of the county in which the taxpayer's business is located a certificate of indebtedness certifying that the person named therein is indebted to the commission for the amount of the tax established by the commission as due.
- (2) The circuit clerk shall enter immediately upon the circuit court judgment docket:
- (A) The name of the delinquent taxpayer;
  - (B) The amount certified as being due;
  - (C) The name of the tax; and
  - (D) The date of entry upon the judgment docket.
- (3) The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the circuit court. This entry shall constitute the commission's lien upon the title of any real and personal property of the taxpayer in the county where the certificate of indebtedness is recorded.
- (4) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.
- (5) The commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.
- (f) The provisions of subsections (d) and (e) of this section shall be effective upon the passage of this ordinance which specifically provides that these provisions shall be utilized by the commission in enforcing the tax. Ord. No. 2007-837.

#### **4. Disposition Of Revenues**

- (a) All taxes, interest, penalties, and costs collected pursuant to a tax levied by the City of

Osceola, Arkansas, as authorized in this subchapter shall be credited to the city advertising and promotion fund which shall be created by this ordinance levying the tax in the City of Osceola, Arkansas. Ord. No. 2007-837.

## **5. Advertising And Promotion Commission**

(a) The City of Osceola, Arkansas, hereby creates a municipal advertising and promotion commission, to be composed of seven (7) members, as follows:

(1)(A) Four (4) members shall be owners or managers of businesses in the tourism industry, and the owner or manager shall reside in the levying municipality.

(B) At least three (3) of these members shall be owners or managers of hotels, motels, or restaurants and shall serve for staggered terms of four (4) years;

(2) Two (2) members of the commission shall be members of the City Council of the City of Osceola, Arkansas, and selected by the City Council of the City of Osceola, Arkansas, and shall serve at the will of the City Council of Osceola, Arkansas; and

(3) One (1) member shall be from the public at large who shall reside within the City of Osceola, Arkansas, and shall serve for a term of four (4) years.

(b) The initial members of the commission shall be selected as follows:

(1) The four (4) tourism industry positions provided for in subdivision (a)(1) of this section shall be filled by appointment made by the City Council of Osceola, Arkansas for staggered terms so that:

(A) One (1) member will serve for a term of one (1) year;

(B) One (1) for a term of two (2) years;

(C) One (1) for a term of three (3) years; and

(D) One (1) for a term of four (4) years.

(2) The at-large position provided for in subdivision (a)(3) of this section shall be filled by nomination by the Mayor of the City of Osceola, Arkansas, and approval by the City Council of Osceola, Arkansas.

(d) Whether resulting from expiration of a regular term or otherwise, a vacancy on the commission in any of the four (4) tourism industry positions provided for in subdivision (a)(1) of this section or in the at-large position provided for in subdivision (a)(3) of this section shall be filled by appointment made by the remaining members of the commission, with the approval of the City Council of Osceola, Arkansas. Ord. No. 2007-837.

## **6. Use Of Funds Collected**

(a)(1)(A) In the manner as shall be determined by the municipal advertising and promotion commission, all funds credited to the city advertising and promotion fund pursuant to this subchapter shall be used for the:

(i) Advertising and promoting of the city and its environs;

(ii) Construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center;

(iii) Operation of tourist promotion facilities in the city or the county where the city is located if the city owns an interest in the convention center or facility, and facilities necessary for, supporting, or otherwise pertaining to, a convention center; or

(iv) Payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter.

(B) The commission may engage such personnel and agencies and incur such administrative

costs as it deems necessary to conduct its business.

(2)(A) The commission is the body that determines the use of the city advertising and promotion fund.

(B) Pursuant to this section, if the commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, it may use its funds derived from the hotel and restaurant tax.

(b)(1)(A) Any city of the first class that may levy and does levy a tax pursuant to this subchapter may use or pledge all or any part of the revenues derived from the tax for the purposes prescribed in this subchapter or for the operation of tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities or for the retirement of bonds issued for the establishment and operation of other tourist oriented facilities, including, but not limited to, theme parks and other family entertainment facilities.

(B) These revenues shall be used or pledged for the purposes authorized in this subsection only upon approval of the commission created pursuant to this subchapter.

(2) Funds credited to the city advertising and promotion fund pursuant to this subchapter may be used, spent, or pledged by the commission, in addition to all other purposes prescribed in this subchapter, on and for the construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities in the city or the county where the city is located if the city owns an interest in the center or facility, including, but not limited to, facilities constituting city parks and also for the payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter in the manner as shall be determined by the commission for the purpose of such payment.

(c)(1) All local taxes levied as authorized in § 26-75-602(a) shall be credited to the city advertising and promotion fund and shall be used for the purposes described in subsections (a) and (b) of this section.

(2) The taxes shall not be used:

(A) For general capital improvements within the city or county;

(B) For the costs associated with the general operation of the city or county; or

(C) For general subsidy of any civic group or the chamber of commerce.

(3) However, the commission may contract with such groups to provide to the commission actual services that are connected with tourism events or conventions.

(4) The authorization and limitations contained in this subsection shall be reasonably construed so as to provide funds for promoting and encouraging tourism and conventions while not allowing such special revenues to be utilized for expenditures that are normally paid from general revenues of the city. Ord. No. 2007-837.

## **Chapter 3.12**

### **City Officials Doing Business with City**

#### Sections:

3.12.01 Kennemore Real Estate

#### **3.12.01 Kennemore Real Estate**

1. The Mayor of the City of Osceola, Dickie Kennemore, and his son, Ken Kennemore, are real estate brokers and have a financial interest in Kennemore Real Estate. The services provided by Kennemore Real Estate, as buyers and/or sellers agents, are not of the same type as performed by the Mayor in his or her regular city employment as Mayor.
2. Kennemore Real Estate is hereby authorized and permitted to conduct business with the City of Osceola, Arkansas, including being a party to real estate contracts and/or offers to purchase real estate owned by the City of Osceola, and to earn the standard six percent (6%) commission upon the completion of such sale of real estate, which sale shall be approved by a resolution of the City Council by majority vote, after consideration of any offer to purchase which is procured for the City of Osceola by Kennemore Real Estate. Ord. No. 2015-14.

## TITLE 4

### BUSINESS LICENSES AND REGULATIONS

#### Chapters:

- 4.04 Franchises
- 4.08 Business Permits

#### **Chapter 4.04**

#### **Franchises**

#### Sections:

- 4.04.01 Telephone Company
- 4.04.02 Cable Franchise
- 4.04.03 Franchise Cable
- 4.04.04 Power Franchises Rates
- 4.04.05

#### **4.04.01 Telephone Company**

1. The Southwestern Bell Telephone Company, its successors and assigns (herein referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Osceola, State of Arkansas, (herein referred to as "City"). The plant construction and appurtenances used in or incident to the giving of a telephone service and to the maintenance of a telephone business and system by the Telephone Company in said City shall remain as now constructed, subject to such changes as may be considered necessary by the City in the exercise of its inherent powers and by the Telephone Company in the conduct of its business, and said Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys and public grounds in places within the limits of said City as the same from time to time may be established. Ord. No. 349, Sec. 1.

2. The Telephone Company shall pay to the City on or before March 1, 1973, for the period January 1, 1973, to December 31, 1973, inclusive, and thereafter for like periods on or before each March 1, an amount determined by multiplying the number of telephones within the

corporate limits of the city as of the last day of the preceding year by the sum of \$0.91. Ord. No. 458, Sec. 2.

3. The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the City under authority conferred by law. The Telephone Company shall have the privilege of crediting such sums with any unpaid balance due said Company for telephone services rendered or facilities furnished to said City. Ord. No. 349, Sec. 3.

4. The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty eight hours advance notice to arrange for such temporary wire changes.

5. Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any city official to whom said duties have been or may be delegated.

6. Nothing in this Ordinance contained shall be construed to require or permit any electric light or power wire attachments by the City or for the City. If light or power attachments are desired by the City or for the City, then a separate noncontingent agreement shall be a prerequisite to such attachments.

7. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privilege, nor shall it affect any prior or existing rights of the Telephone Company to maintain a telephone system within the City.

#### **4.04.02 Cable Franchises**

1. The City will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Company and any other television system operating in the City, notwithstanding any different or inconsistent provision in the Franchise. Ord. No. 1994-695.

2. In connection with such regulation, the City will ensure a reasonable opportunity for consideration of the views of interested parties. Ord. No. 1994-695.

3. The Mayor, Cable Administrator, City Finance Officer or his or her designee, is authorized to execute on behalf of the City and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate regulations in order to enable the City to regulate Basic Service Rates and Charges. Ord. No. 1994-695.

4. The City will organize and maintain a City Cable Committee as defined and

allowed by the FCC to regulate Basic Service Rates, to act as a community liaison between citizens of Osceola, Arkansas and the company, and to maintain cable standards as set forth by the FCC. The City's Cable Committee will be headed by a Cable Administrator and will be staffed with a City Council Representative and persons from the immediate City. Ord. No. 1994-695.

5. The City may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and the standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the City, to properly evaluate and analyze rates and charges. Ord. No. 1994-695.

6. All costs for the review of initial rates or rate changes shall be paid by the cable operator upon the demand of the City, unless contrary to applicable rules of the FCC governing these procedures or unless otherwise specifically preempted by state or federal law. The costs shall include but not be limited to, rate consultants, attorney's fees and the reasonable value of services (as determined by the City) rendered by the City or any City employees, agents or representatives of the City. Ord. No. 1994-695.

#### **4.04.03 Friendship Cable**

1. The City of Osceola has determined that Friendship Cable has the ability to provide the services required under the Franchise for the System and hereby consents to and approves, subject to applicable laws, the assignment by East Arkansas of its right, title and interest in the Franchise to Friendship Cable and the assumption by Friendship Cable of the obligations of East Arkansas under the Franchise which accrue from and after the Closing Date (as hereinafter defined). In connection with the foregoing, the City of Osceola hereby releases East Arkansas, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date. Ord. No. 1997-726.

2. The City of Osceola confirms that: (a) the Franchise was properly granted; (b) the Franchise is currently in full force and effect and expires on March 1, 2010; (c) East Arkansas performance under the Franchise has been satisfactory and East Arkansas is in material compliance with the provisions of the Franchise and with applicable law; (d) there exists no known fact or circumstances which constitutes, or which with the passage of time or the giving of notice or both would constitute, a default or breach under the Franchise, or would allow the City of Osceola to cancel or terminate the rights under the Franchise except upon the expiration of the full term thereof; and (e) the Franchise supersedes all other agreements between the City of Osceola and East Arkansas and represents the entire understanding between the City of Osceola and East Arkansas with respect to the System and East Arkansas' provision of cable television and other telecommunications services within the City of Osceola and East Arkansas has made no commitments and owes no obligations to the City of Osceola other than those specifically stated in the Franchise. Ord. No. 1997-726.

3. This Ordinance shall become effective until Friendship Cable closes the purchase of the System from East Arkansas (the "Closing Date") and assumes the obligations of East Arkansas under the Franchise. Ord. No. 1997-726.

#### **4.04.04 Power Franchises Rates**

1. That Ordinance no. 2001-764 is hereby amended to include the rate schedules as per the attached and made a part of this ordinance as though set out herein word for word.

2. That the rates and service as set forth in said attachment shall supersede all other rates and schedules now in effect and in conflict therewith. Ord. No. 2003-792.

#### **4.04.05 Plum Point Electric Station**

1. The City Council hereby finds and determines, based on the presentation made to the Council at the meeting on January 20, 2006, and on updated information presented at this meeting, that entering into the proposed Unit Power Purchase Agreement with the Missouri Joint Municipal Electric Utility Commission is in the best interest of the electric ratepayers of the City of Osceola. In particular, the City Council finds that participating in the development of the Plum Point Electric Station (the "Project") by acquiring an interest in capacity and energy to be produced by the Project pursuant to Arkansas Code Annotated Sections 14-202-101 et seq. will (i) result in economies and efficiencies in the acquisition of a power supply; (ii) help meet the City's estimated requirements for power and energy during the life of the Project; (iii) compare favorably to the cost of existing or alternative power supply sources; and (iv) not result in taking power in excess of the needs of the City. The Unit Power Purchase Agreement will entitle the City to approximately 20 megawatts of capacity and energy to meet baseload requirements of the City. The payment obligations under the Unit Power Purchase Agreement are specifically limited to the revenues of the City electric system, and will not be a general obligation of the City. The Council also notes that it has received the opinion of the Attorney General for the State of Arkansas that a Unit Power Purchase Agreement substantially similar in form and content to the Unit Power Purchase Agreement presented at this meeting is in conformance with Arkansas Code Annotated Sections 25-20-101 et seq., relating to Interlocal Cooperation Agreements. Ord. No. 2006-828.

2. The City Council hereby authorizes and directs the Mayor to enter into the Unit Power Purchase Agreement with MJMEUC, to purchase approximately 20 MW of capacity and energy for the life of the Project, in substantially the form presented to this meeting, with only such changes as he deems necessary and advisable. A copy of the Unit Power Purchase Agreement is directed to be placed on file in the office of the City Clerk for inspection by any interested person. Ord. No. 2006-828.

## **Chapter 4.08**

### **Business Licenses**

#### Sections:

- |         |                   |
|---------|-------------------|
| 4.08.01 | Business Licenses |
| 4.08.02 | Tree Cutters      |



4.08.03 Scrap Metal Dealers

**4.08.01 Business Licenses**

1. The conducting and carrying on of all trades, businesses, occupations, vocations, callings and professions, except those specifically exempted by the laws of the State of Arkansas, and also excepting public utilities otherwise taxes by the City, within the boundaries of the City of Osceola, is hereby declared to be a privilege, and each and every person, firm or corporation conducting or engaging in any such trade, business, occupation, vocation, calling or profession, shall apply for and pay for a license therefore in the amounts and procedural requirements as set out. Ord. No. 1993-690.

2. Occupational Licenses Required; It shall be unlawful for any person in the city to engage in exercise, or pursue any line of business without first having obtained and paid for a city license therefore from the city recorder/treasurer; the amount of which license are hereby fixed in Section 9. However, any person, firm or corporation whose primary business location is outside the city limits, maintains no permanent business in Osceola, and who pays occupational license in other city is exempt from this license. Ord. No. 1993-690.

3. Procurement of license; Except as herein provided, all licenses issued under this Ordinance shall become due on January 1st of each year. If not paid by March 15th a penalty of double the amount of the license fee provided will be assessed, also if it becomes necessary for the city recorder/treasurer or other officials to go to the business to collect, a Fifty (\$50. 00) Dollar additional penalty will be imposed. All Licenses shall be payable annually and except as herein provided no license shall be issued for a longer period of time than one (1) year. Ord. No. 1993-690.

4. Application; Any person desiring to engage in, pursue, or carry on any of the occupations, callings, or businesses mentioned in this ordinance, shall apply to the city recorder / treasurer who shall collect from the applicant the license fee provided for herein, and the city recorder/treasurer shall issue to the applicant his receipt and license certificate. Ord. No. 1993-690.

5. False statements or failure to furnish information; It shall be unlawful for any person knowingly and willfully to make a false written or verbal statement in applying for a license under this ordinance for the purpose of defrauding the city, by which statement a license is procured for a less sum than is lawfully due hereunder. It shall likewise be unlawful for any person to fail or refuse to furnish the city recorder/treasurer all required information necessary to determine the amount of the annual occupational license fee in accordance with the provisions of this ordinance. Ord. No. 1993-690.

6. Fee not returnable; The license fee provided for in this ordinance, when paid for any period provided herein, shall not be returnable in case the licensee, for any reason, surrenders his license or discontinues his business, and any sum so paid shall not be returnable to any person. Ord. No. 1993-690.

7. Transfer prohibited; No license issued under the provisions of this chapter shall be transferred from one person to another or from one business to another without authorization from the city council. Ord. No. 1993-690.

8. Posting; Each license procured under the provisions of this chapter shall be posted in a permanent place where the business covered thereby is carried on, and the holder thereof shall immediately show such license to any officer of the city, upon being requested to do so. Ord. No. 1993-690.

9. Schedule of license taxes; For the privilege of engaging in, operating or carrying on the following businesses, trades, vocations, professions or callings in the city, the following license taxes are hereby devised and shall be paid each year unless otherwise indicated;

**Automobile**

|                       |          |
|-----------------------|----------|
| Dealer – New and Used | \$100.00 |
| Dealer – Used Only    | 35.00    |
| Body Shop             | 25.00    |
| Garage                | 25.00    |
| Parts                 | 35.00    |

**Amusement Establishments**

|   |       |
|---|-------|
| Video Arcades, Video Rentals, Pool Halls, Skating Rinks, Dance Halls, Clubs, Ets. | 35.00 |
| (Where beer or other alcoholic beverages are sold)                                | 70.00 |

**Bakeries**

|                               |       |
|-------------------------------|-------|
| As a business                 | 15.00 |
| As an industry (See industry) |       |

**Banks and Savings and Loans**

100.00

**Barber Shops and Beauty Salons**

|                |       |
|----------------|-------|
| (Per operator) | 10.00 |
|----------------|-------|

**Clothes Cleaners and Laundromats**

25.00

**Construction contractors**

|                                      |       |
|--------------------------------------|-------|
| Subcontractors (one trade)           | 15.00 |
| Subcontractors (more than one trade) | 25.00 |
| General contractor                   | 35.00 |

**Clothing Stores**

25.00

**Dairy Bars and Restaurants**

|  |       |
|--|-------|
| (Where beer or other alcoholic beverages are sold) | 50.00 |
|--|-------|

|  |        |
|--|--------|
| <b>Drug Stores</b>   | 35.00  |
| <b>Electronic Repair</b> (Radio, T.V., Etc.)                   | 25.00  |
| <b>Fish and Bait Shops</b>                                     | 25.00  |
| <b>Florist and Nurseries</b>                                   | 25.00  |
| <b>Fruit and Vegetable Stands at Permanent Locations</b>       | 25.00  |
| <b>Furniture and Appliance Stores</b>                          |        |
| Less than 5,000 sq. ft.  | 25.00  |
| 5,000 – 10,000 sq. ft.   | 60.00  |
| Over 10,000 sq. ft.  | 100.00 |
| <b>Gas Stations</b>  | 35.00  |
| <b>General Merchandise Stores</b> (Selling a Variety of Goods) |        |
| Less than 5,000 sq. ft.  | 25.00  |
| 5,000 – 10,000 sq. ft.   | 60.00  |
| Over 10,000 sq. ft.  | 100.00 |
| <b>Grocery Stores</b>  |        |
| Less than 5,000 sq. ft.  | 20.00  |
| 5,000 – 10,000 sq. ft.   | 60.00  |
| Over 10,000 sq. ft.  | 100.00 |
| <b>Home Occupation Businesses</b> (Unless Specifically Named)  | 20.00  |
| <b>Hotels and Motels</b>                                       |        |
| 1 to 10 rooms  | 25.00  |
| 11 to 30 rooms   | 60.00  |
| 31 rooms and above   | 100.00 |
| <b>Insurance Agents</b>  | 35.00  |
| <b>Industry</b>  |        |
| 1 to 40 employees  | 50.00  |
| 41 to 200 employees  | 100.00 |
| 201 employees and above  | 200.00 |
| <b>Jewelry Store</b>   | 25.00  |
| <b>Lumber and Building Supplies</b>                            | 50.00  |
| <b>Liquor Store</b>  | 200.00 |

|   |        |
|---|--------|
| <b>Machine Shop</b>   | 35.00  |
| <b>Novelty Shop</b>   | 25.00  |
| <b>Pawnbrokers and Surplus Stores</b>   | 35.00  |
| <b>Petroleum Products (Supplier)</b>  | 50.00  |
| <b>Professionals (Doctors, Lawyers, Accountants, Other Professionals)</b>                             | 35.00  |
| Maximum per Establishment   | 100.00 |
| <b>Real Estate and/or Rental Agent</b>  | 35.00  |
| <b>Shoe Stores</b>  | 25.00  |
| <b>Traveling Shows (Circus, Carnival, Etc.)</b>   |        |
| Per Week  | 100.00 |
| Must have approval of Mayor or city council and the owner of the property where show is to be located |        |

**Unclassified** – Any business profession or occupation not included in this section shall be determined by the City of Osceola’s Recorder/Treasurer at the time of Purchase.

10. Multiple Businesses Located within the same area, under the same rook, and having the same owner/operator shall be covered under one license, being that license which is greatest in cost.

11. New Businesses beginning operation on or after April 1 - The cost of a privilege license, purchased for a new business on or after April First, will be prorated by yearly quarters. Ord. No. 1993-690.

#### **4.08.02 Tree Cutters**

1. For the purpose of this ordinance a commercial tree cutter shall by any person, firm or individual who cuts, trims, contracts to cut or trim any tree for another person, firm or corporation, for compensation, without compensation or as an accommodation on public or private property. Ord. No. 1981-549.

2. From and after the passage and approval of this ordinance all commercial tree cutters, as defined by this ordinance, prior to undertaking each job for cutting and trimming trees, must comply with the following:

- A. Obtain a permit from the Osceola Permits Department;

- B. Display to the City Permits Department an annual privilege license in the amount of \$25.00, which shall be paid to and procured from the City Tax Collector;
- C. Must subscribe to the current existing regulations promulgated by the permits department of the City of Osceola and approved by the City Council. · Ord. No. 1981-549.

3. It shall be unlawful for any person, firm or corporation to violate any of the provisions of this ordinance. Ord. No. 1981-549.

4. All commercial tree cutters as defined by this Ordinance shall remove from the premises where this work is conducted, all cut tree limbs, and residue created as a result of their work, and shall remove and dispose of the same in accordance with all laws and regulations. Ord. No. 1991-636.

5. Penalty. Any person violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$25.00 nor more than \$100.00 or confined in the City jail for not more than thirty (30) days, or both such fine and confinement, and each violation of this Ordinance shall be a separate offense. Ord. No. 1991-636.

#### **4.08.03 Scrap Metal Dealers**

- 1. Recordkeeping required. Any scrap metal dealer within the city limits of the City of Osceola, Arkansas, that purchases or acquires any of the following metals from any person shall maintain accurate records of the transactions:
  - A. copper
  - B. steel
  - C. aluminum. Ord. No. 2006-832.
- 2. Identification of Seller
  - a. Any scrap metal dealer within the city limits of the City of Osceola, Arkansas, required to maintain records of transactions under this ordinance shall obtain proper identification from the seller.
  - b. "Proper identification" means a motor vehicle operator's license or other official state-issued identification of the seller that contains a photograph of the seller, and includes:
    - i. The residential or mailing address of the seller, other than a post office box number;
    - ii. The motor vehicle license number of any motor vehicle owned or operated by the seller; and
    - iii. The signature of the seller and his/her social security number.

- c. The person purchasing or otherwise acquiring any metal specified in Section 1 above shall affix his or her signature as a witness to the signature and identification of the seller. Ord. No. 2006-832.
- 3. Inspection of records. A record maintained pursuant to this ordinance is subject to inspection by any law enforcement officer of the City of Osceola, Arkansas. Ord. No. 2006-832.
- 4. Failure to maintain records- Penalty. Failure to maintain accurate records with proper identification from the seller is considered a violation of this Ordinance. Any person or entity that violates the provisions of this Ordinance shall be subject to a fine in an amount up to five hundred dollars (\$500) for any one (1) specified offense or violation of this ordinance, or double that sum for each repetition of such offense or violation. Ord. No. 2006-832.

## **TITLE 5**

### **HEALTH AND SANITATION**

#### **Chapters:**

- 5.04 Maintenance of Real Property
- 5.08 Inoperable Vehicles
- 5.12 Littering and Yard Maintenance

#### **Chapter 5.04**

#### **Maintenance of Real Property**

#### **Sections:**

- 5.04.01 Property Maintenance
- 5.04.02 Building Removal
- 5.04.03 City's Power
- 5.04.04 Unknown Resident
- 5.04.05 City's Lien
- 5.04.06 Penalty
- 5.04.07 Alternative Remedies

#### **5.04.01 Property Maintenance**

It shall be unlawful for the owner, owners or occupant of any lot or other real property within the City of Osceola, Arkansas to maintain or allow any dilapidated or unsightly building or structure on such lot or real property. Ord. No. 1991-650.

#### **5.04.02 Building Removal**

All property owners within the City of Osceola, Arkansas are hereby required to tear down, remove and dispose of all dilapidated or unsightly buildings or structures existing on such property. Ord. No. 1991-650.

#### **5.04.03 City's Power**

If the owner or owners of any lot or other real property within the City of Osceola, after receiving seven (7) days notice in writing by the City Code Enforcement Officer, shall refuse or neglect to perform the duties in connection with his or her property as described in Section 1 and 2 hereof, the City of Osceola is hereby authorized to enter upon the property and have said dilapidated or unsightly building or structure torn down and to have said property cleaned up and the cost thereof shall be charged against said premises and shall constitute a lien thereon. Ord.

No. 2004-797.

#### **5.04.04 Unknown Resident**

In case the owner of any lot or other real property is unknown or his whereabouts is unknown or he is a non-resident of this State, then a copy of the written notice previously referred to shall be posted upon the premises, and before any action to enforce such lien shall be had, notice to said owner shall be published on one occasion in the Osceola Times and said notice shall be mailed to said Owner at his last known address by registered mail. Ord. No. 2003-787.

#### **5.04.05 City's Lien**

1. The lien herein provided for may be enforced and collected in one of the following manners:
2. The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in Chancery Court; or
3. The amount of the lien herein provided for may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known. If the name of the owner or owners cannot be determined, then after publication of notice of such hearing in a newspaper having a bona fide circulation in Mississippi County for one (1) insertion per week for four (4) consecutive weeks; and the amount so determined at said hearing, plus ten percentum (10%) penalty for collection, shall be certified by the City Council to the Mississippi County Tax Collector, and by him placed on the tax books as delinquent taxes and collected accordingly, and the amount, less three percentum (3%) thereof, when so collected, shall be paid to the City of Osceola. Ord. No. 1991-650.

#### **5.04.06 Penalty**

In addition to the lien provisions as provided herein, any owner, owners or occupant of any lot or other real property within the City of Osceola, Arkansas, after having been given seven (7) days notice by the City Code Enforcement Officer, who shall fail, refuse or neglect to correct or rectify said condition, shall be guilty of a violation of this Ordinance, and upon conviction therefor, shall be punishable by a fine of not less than Twenty-five (\$25.00) Dollars and not more than One (\$100.00) Dollars; and each day such violation occurs or shall continue, shall be considered a separate offense. Ord. No. 2004-797

#### **5.04.07 Alternative Remedies**

Said City shall have the option of enforcing this Ordinance by any one or more of the methods as provided for herein, and the use of one remedy as prescribed herein by said City shall in a way prevent or prohibit the City of Osceola, Arkansas from proceeding under different or other remedies as herein provided. Ord. No. 1991-650.



## Chapter 5.08

### Inoperable Vehicles

Sections:

|         |                                |
|---------|--------------------------------|
| 5.08.01 | Inoperable Vehicles            |
| 5.08.02 | Inoperable Vehicles Removal    |
| 5.08.03 | Inoperable Vehicles Exceptions |
| 5.08.04 | Penalty                        |
| 5.08.05 | Notice                         |
| 5.08.06 | Enforcement                    |

#### 5.08.01 Inoperable Vehicles

It shall be unlawful for the owner, owners, or occupant of any lot or other real property within the City of Osceola, Arkansas to utilize the premises for Commercial and/or open storage of any inoperable motor vehicle. An inoperable motor vehicle for the purpose of this Ordinance, is defined as one that is in a state of disrepair and incapable of being moved under it's own power or one that does not have current, valid license plates. Ord. No. 1993-679.

#### 5.08.02 Inoperable Vehicles Removal

Any inoperable vehicle located on a vacant lot or unoccupied real property within the City of Osceola shall, after and attempt to locate the owner, shall be ordered removed by the Chief of Police and disposed of by the means provided by law. Ord. No. 1993-679.

#### 5.08.03 Inoperable Vehicles Exceptions

It shall be unlawful for the owner, owners or occupant of any lot or other real property within the City of Osceola, Arkansas to utilize the premises for the maintenance of vehicles, operable or inoperable, licensed or unlicensed movable or incapable of moving under it's own power, except under the following conditions:

- A. The vehicle being maintained shall be registered to a resident of that address where the work is being performed.
- B. b . Maintenance performed in open areas shall be of a minor nature lasting no more than three consecutive days, and shall not require the use of "A" frames, chain hoist, floor jacks, engine hoist or such equipment. Use of such equipment in an open area shall constitute a violation of this Ordinance.
- C. No maintenance shall be allowed on City streets or right-of-ways other than emergency maintenance required to remove that vehicle from the street or right-of-way.
- D. Maintenance of vehicles, whether minor or major, in open areas or in an enclosed area , shall be performed without excess emission of noise, smoke or odor. Upon investigation of a complaint, the investigating officer shall make a determination

as to a violation concerning emissions. Ord. No. 1993-679.

#### **5.08.04 Penalty**

Any owner, owners or occupant, after having been given three (3) days notice by The City Code Enforcement Officer, a City Police Officer or the City Attorney, who shall fail, refuse or neglect to correct or rectify said condition, shall be guilty of a violation of this Ordinance, and upon conviction thereof, shall be punishable by a fine of not less than Twenty-Five (\$25.00) Dollars and not more than One Hundred (\$100.00) Dollars; and each day such violation occurs or shall continue, shall be considered a separate offense. Ord. No. 1993-679.

#### **5.08.05 Notice**

After receiving the three days' notice provided for herein above, should the person responsible for the violation fail to take the necessary action to correct it, the City Council may be notified and the City Attorney, under the direction of the City Council, shall within seven (7) days thereafter apply to Chancery Court for an injunction, mandamus, or other process to prevent, enjoin, abate, or remove said violation to these regulations. Ord. No. 1993-679.

#### **5.08.06 Enforcement**

The City of Osceola shall have the option of enforcing this Ordinance by any one or more of the methods as provided for herein, and the use of one remedy as prescribed herein by said City shall in no way prevent or prohibit the City of Osceola, Arkansas from proceeding under different or other remedies. Ord. No. 1993-679.

## **Chapter 5.12**

### **Littering and Yard Maintenance**

#### Sections:

|         |   |
|---------|---|
| 5.12.01 | Construction Waste                      |
| 5.12.02 | Littering                               |
| 5.12.03 | Weeds and Grass, Etc., Removal          |
| 5.12.04 | Weeds and Grass, Etc., Notice to Remove |
| 5.12.05 |   |

#### **5.12.01 Construction Waste**

1. From and after approval of the passage of this Ordinance it shall be unlawful for any contractor, sub-contractor, or private property owner to place any waste material from any construction, roofing, painting, siding or other such improvement project on public or private property to be disposed of by the City. Ord. No. 1991-637.

2. All contractors, sub-contractors and private property owners shall be responsible for the removal and disposal of all waste materials resulting from construction or improvement projects in accordance with applicable laws and regulations and this Ordinance. Ord. No. 1991-637.
3. Any person or firm who violates the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than \$25.00 nor more than \$100.00 or confined in the city jail for not more than thirty (30) days, or both, such fine and confinement, and each violation of this Ordinance shall be considered a separate offense. Ord. No. 1991-637.

#### **5.12.02 Littering**

1. It shall be unlawful for any person to throw, place or otherwise deposit any paper, cans, bottles, or other trash, litter, refuse or garbage upon the streets or public ways of the city of Osceola. Ord. No. 400.
2. Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than \$1.00 nor more than \$50.00. Ord. No. 400.

#### **5.12.03 Weeds and Grass, Etc., Removal**

Weeds and grass, removal of rubbish, open storage, stagnant water. It shall be unlawful for any person owning and/or occupying any lot or real property within the City of Osceola, Arkansas, to allow weeds to grow thereon to a greater height of more than twelve (12) inches or to become unsightly or unsanitary, or to allow grass, garbage, rubbish, rotting or dead limbs or trees to become unsafe, unsightly and unsanitary or allow any icebox, refrigerator, stove, tires, building material, paper, building rubbish to be openly stored, or allow similar unsafe, unsightly and unsanitary. Ord. No. 2009-867.

#### **5.12.04 Weeds and Grass, Etc., Notice to Remove**

If the owner and/or occupant of any lot or other real property shall neglect or refuse to remove, abate, or eliminate any condition cited in the "Notice to Remove" as provided under Section 1 hereunder, after having been given seven (7) days' notice in writing to do so, then the Code Enforcement Officer, acting on behalf of the City of Osceola, is authorized to do whatever is necessary to correct the condition and to charge the cost thereof to the owner of the lots or other real property. In particular, the Code Enforcement Officer may:

- A. Issue a subsequent Summons in person or by written notice citing the owner and/or occupant for continued violation of the provisions of "Section 1" of this Ordinance. The fine for such violation found by the Osceola District Court shall be not less than One Hundred Dollars (\$100.00) nor greater than Five Hundred Dollars (\$500.00).
- B. May proceed with cleanup on behalf of the City of Osceola, in a method he deems

necessary and reasonable. The total cost of the clean-up will be tabulated and collected in a manner described herein. The City shall file a lien for costs incurred in the cleanup process and shall file the lien with the Circuit Clerk no later than one hundred twenty (120) days after the City completes the clean-up work on the property. Ord. No. 2009-867.

#### **5.12.05 Penalties**

The Code Enforcement Officer, acting on behalf of the City of Osceola, is authorized to assess the owner and/or occupant a fee of One Hundred Dollars (\$100.00) or ten percent (10%) of the total costs incurred by the City to remedy the violation, whichever is greater, to cover the cost of administering the removal and correction of the violations noted of Section 1 of the Ordinance. This fee shall be in addition to the actual cost of the work involved in correcting the conditions and is to be in addition to any fines imposed by the Osceola District Court. Ord. No. 2009-867.

#### **5.12.06 Remedies**

The costs incurred by the City of Osceola to remedy any violation of this Ordinance may be enforced and collected in one (1) of the Following manners:

- A. The costs incurred maybe enforced at any time within eighteen (18) months after the work has been done, by an action in Circuit Court; or
- B. The costs incurred by the City of Osceola may be determined at a hearing before the City Council held in accordance with the notice provided to the owner and/or occupant of the real property in the Notice to Remove delivered to the owner and/or occupant of the real property by the Code Enforcement Officer or served by any other method allowed hereunder in accordance with Arkansas law. Once the costs are determined by the City Council, a Resolution setting out the findings of the City Council shall be prepared and approved by the City and a lien shall be fined against the real property and its owner with the Circuit Clerk no later than sixty (60) days after the City Council confirms the lien amount. The lien shall also be filed with the tax collector to add the costs to the tax rolls as delinquent taxes. The amount determined by the City Council at the hearing shall be certified by the City Council to the Mississippi County Tax Collector, and by him placed on the tax books as delinquent taxes and collected accordingly, and the amount, less three per centum (3%) thereof, when so collected, shall be paid to the City of Osceola, Arkansas. Ord. No. 2009-867.

#### **5.12.07 Property with Unknown or Non-Resident**

In case the owner and/or occupant of any lot or other real property in violation of this Ordinance is unknown or his whereabouts is unknown or his is a non-resident of this State, then a copy of the written notice hereof referred to shall be posted upon the premises. Before any action to enforce such lien shall be had, the City Clerk shall make an Affidavit setting out the facts as to unknown address or whereabouts of non-residents. Thereupon, service of the

publication, as now provided for by law against non-resident Defendants may be had. An attorney ad litem shall be appointed to notify the Defendant by registered letter addressed to his last known place of residence if it can be found. Ord. No. 2009-867.

#### **5.12.08 Alternative Remedies**

The City of Osceola shall have the option of enforcing this Ordinance by any one or more of the methods as provided for herein, and the use of one remedy as prescribed herein by the City shall in no way prevent or prohibit the City of Osceola, Arkansas, from proceeding under different or other remedies as are herein provided. Ord. No. 2009-867.

## TITLE 6

### ANIMALS AND FOWL

#### Chapters:

- 6.04 Animals, Generally
- 6.08 Vicious dogs

#### **Chapter 6.04**

#### **Animals, Generally**

#### Sections:

- 6.04.01 Definitions
- 6.04.02 Animal Waste, Offensive Odors Prohibited
- 6.04.03 Annual License and Tag
- 6.04.04 Rabies Vaccination Required
- 6.04.05 Running at Large Prohibited
- 6.04.06 Impoundment
- 6.04.07 Redemption of Animals
- 6.04.08 Confinement When Rabies Suspected
- 6.04.09 Vicious Animals Restricted
- 6.04.10 Keeping of Wild Animals
- 6.04.11 Keeping of Livestock
- 6.04.12 Animal Control Officer
- 6.04.13 Interference with Animal Control Officer Prohibited
- 6.04.14 Penalty

#### **6.04.01 Definitions**

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. ABANDONMENT. Any person in possession of an animal who knowingly fails or refuses to provide care of the animal as defined by this ordinance shall be deemed to have abandoned the animal.
2. ANIMAL. Any living creature, domestic or wild.
3. ANIMAL CONTROL OFFICER. Any person designated by the City of Osceola who is qualified to perform such duties.
4. ANIMAL SHELTER. Any facility operated by a humane society, municipal agency or it's authorized agents for the purpose of impounding or caring for

- animals held under the authority of this ordinance or state law.
5. AT LARGE. Not under the physical control of the animal's owner or harborer, or his authorized representative, either by leash, cord, chain, fence or enclosure of sufficient strength or construction to contain the animal. An animal intruding upon the property of another person or upon public property and not under the physical control referred to herein shall be deemed "running at large". An animal within an automobile or other vehicle shall not be deemed "running at large" if the animal is physically confined to the vehicle. An animal shall not be considered "at large" when on the premises of the owner or harborer thereof and accompanied by the owner or harborer.
  6. CAT. A feline of either sex, including one neutered or sterilized.
  7. CITY. Osceola, Arkansas.
  8. DOG. A canine of either sex, including one neutered or sterilized.
  9. ENCLOSURE. A fence or structure forming or causing an enclosure suitable to confine an animal and prevent the animal from escaping.
  10. HARBOR. For a period of three days or more, to keep and care for an animal or provide a premises to which the animal returns.
  11. LICENSE. A permit issued by the City to indicate that an animal is vaccinated against rabies in accordance with city ordinance and that the owner or harborer has remitted to the City the levied permit fee.
  12. LIVESTOCK. The term "livestock" means all farm animals, including but not limited to cattle, horses, pigs, fowl, sheep, goats and mules owned, kept or raised for profit.
  13. PUBLIC NUISANCE. Any animal or animals which
    - a. Molests passersby or passing vehicles.
    - b. Attacks other animals.
    - c. Trespasses on school grounds.
    - d. Is repeatedly at large.
    - e. Damages public or private property.
    - f. Interferes with refuse collection or spreads trash from refuse containers or molests meter readers.
    - g. Barks, whine, or howls in excessive, continuous fashion.
  14. RESTRAINT. Any animal secured by leash or lead or under the control of owner or harborer and obedient to that person's command.
  15. VICIOUS ANIMAL
    - a. Any animal which, when unprovoked, approaches in a manner of attack any person upon the streets, sidewalks, or any other public ground or place;
    - b. Any animal with a know propensity, tendency or disposition to attack without provocation human beings or domestic animals;
    - c. Any animal which, without provocation, bites or attacks a human being or domestic animal on public or private property; or
    - d. Notwithstanding the above definition, no animal shall be declared vicious if the person attacked or bitten by said animal was teasing, tormenting, abusing or

assaulting the animal or was committing or attempting to commit a crime.

- e. No animal shall be declared vicious if a domestic animal which was bitten or attacked was teasing, tormenting, abusing or assaulting the animal. No animal shall be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

16. **WILD ANIMAL.** A non-human primate, raccoon, skunk, fox, wolf, coyote, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm blooded animal which can normally be found in the wild state, or the offspring borne to wild animals bred with domestic dogs or cats. Ord. No. 2004-799.

#### **6.04.02 Animal Waste, Offensive Odors Prohibited**

1. The owner of an animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas or private property.

2. It shall be unlawful for any person keeping or harboring any animal to fail to keep the premises where such animal is kept free from offensive odors to the extent that such odors are disturbing to any person residing within a reasonable proximity of said premises; and it shall be unlawful to allow the premises where any animal is kept to become unclean and a threat to the public health by failing to diligently and systematically remove all waste material from the premises. Ord. No. 2004-799.

#### **6.04.03 Annual License And Tag**

- A. (1) Levy and Amount of License. There is hereby levied and there shall be collected an animal licensing fee in the amount hereinafter provided on each dog or cat owned or kept within the City. Said fee shall be paid to the City Animal Control Services.  
(2) For each dog or cat owned or kept within the City the levied fee shall be in the amount of \$5.00 annually.  
(3) Should a dog or cat be brought into the City, the person owning or keeping such dog or cat shall have 30 days in which to pay the licensing fee levied hereby. Any person failing to pay said fee within such period shall be required to pay an additional fee of \$5.00.
- B. Issuance of License Receipt and Tag. The City official to whom the fee levied by subsection (A) above is paid shall issue a receipt therefore and shall issue to each person paying said fee a metal tag indicating that said fee has been paid; provided a tag for any dog or cat shall not be issued unless a certificate from a licensed veterinarian is presented which indicates that said dog or cat has been vaccinated for rabies within one year prior thereto.
- C. License Period. A license, if not revoked, shall be valid for one year from the date of issue. A new license shall be obtained each year by every owner and a new fee paid. An owner shall have 30 days from the date the license expires to obtain a



new license without penalty. Any person failing to obtain a license within such period shall be required to pay an additional fee of \$5.00.

- D. Tag to be attached to Animal's collar. It shall be the duty of the owner or keeper of every dog within the City to attach the tag provided for in subsection (B) to a collar securely fixed around the neck of said dog; it shall be the duty of the owner or keeper of every cat within the City to attach the tag provided for in subsection (B) to said cat in a reasonable manner.
- E. Nothing in this section shall be construed to apply to any dog or cat under the age of three months, or to dogs or cats brought to the City on a temporary basis for show or exhibition. Ord. No. 2004-799.

#### **6.04.04 Rabies Vaccination Required**

- 1. All dogs and cats in the City and other pets which are subject to rabies shall be vaccinated annually against rabies by an accredited veterinarian. A metal tag evidencing such vaccination shall be attached to the harness or collar of every dog in the City, and shall be attached to every cat in the City by a reasonable method. Any person who shall keep any pet which is subject to rabies in the City without first having such pet vaccinated for rabies, at least once a year, shall be guilty of a misdemeanor. (Arkansas Statue 20-19-202).
- 2. In case a tag for the animal licensing fee or rabies vaccination required by this chapter is lost or destroyed, a duplicate shall be issued by the City upon presentation of a receipt or other verification showing payment of said fee or receipt of such duplicate tag. No tag shall be transferable from one animal to another. No refunds shall be made on any fee from one animal to another. No refunds shall be made on any fee because of the death of the animal or because the owner leaves the City before the expiration of the license period. Ord. No. 2004-799.

#### **6.04.05 Running at Large Prohibited**

- 1. It shall be unlawful for the owner or person in charge of any livestock of any kind to permit or suffer the same to run at large within the corporate limits of the City at any time.
- 2. It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to run at large within the corporate limits of the City at any time.
- 3. It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to become a public nuisance.
- 4. The term "permit" shall include the failure of the owner or person having charge

of said animal to physically restrain the animal. The animal control officer shall be authorized to enter private property for the purpose of impounding an animal found running at large.

5. Every female dog or cat in heat or estrous shall be confined in a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding. Ord. No. 2004-799.

#### **6.04.06 Impoundment**

1. The Osceola Animal Shelter is authorized to accept from the animal control officer or City of Osceola Police Officer. and to impound, any dog or cat found running at large in violation of this subchapter. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat or dog.
2. Whenever any animal in the animal shelter bears a city tag, it shall be the duty of the animal control officer to notify the owner or person to whom the tag was issued, if such person or owner can be found, that the animal has been taken up and placed in the animal shelter and will be destroyed or released for adoption within five days unless the fee hereinafter prescribed is paid. If the owner or person to whom the tag was issued cannot be found, the animal control officer shall, mail by certified letter, return receipt requested mail to said person's last known address, notify said person that the animal has been impounded at the animal shelter, and will be destroyed or adopted within five days if the fee hereinafter prescribed is not paid. If an animal is found bearing no city tag it shall be taken up and placed in the shelter and will be destroyed or released for adoption within five days. If the owner of the untagged animal comes to reclaim the animal the owner must pay the fees hereinafter prescribed. For the purpose of this section, the first day of taking up shall be counted as the first day of the impoundment period provided herein. Ord. No. 2004-799.

#### **6.04.07 Redemption Of Animals**

1. After the expiration of five days impoundment said animal shall become the property of the City, and the City shall be empowered to release said animal for adoption or to destroy and dispose of said animal as provided for in Section 6.0 above. The animal control officer is hereby authorized to release said animal for adoption or to destroy such animal and dispose of the carcass. For the purpose of this section, the day of taking up shall be counted as the first day of the impoundment.
2. An owner reclaiming an impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$5.00 for the first impoundment if the animal has a rabies vaccination and is currently licensed in the city; \$15.00 for the first impoundment if the animal is not currently vaccinated and licensed in accordance with this ordinance; \$45.00 for the second impoundment for the same animal within a twelve month period, \$50.00 for the

third impoundment for the same animal within a twelve month period, and \$100.00 for the fourth and subsequent impoundment's of the same animal within a twelve month period. In addition to the impoundment fees, a boarding fee of \$7.00 per day per animal shall be charged for each day such animal is impounded in the Animal Shelter, together with the licensing fee on such animal, if the same has not been paid, plus the cost of having an unvaccinated animal vaccinated for rabies.

3. The owner of an impounded animal who refuses to reclaim his animal may be proceeded against for abatement under the provisions of State Law. No unclaimed dog or cat shall be released for adoption or without a written agreement from the adopter guaranteeing that such animal will be sterilized, and an adoption fee of \$15.00 for cats and \$25.00 for dogs. Ord. No. 2004-799.

#### **6.04.08 Confinement When Rabies Suspected**

1. Upon the request of any person who has been bitten by a dog or other animal within the corporate limits of the City (or by a parent or legal guardian of a person bitten who is under age or disability), the animal control officer shall take such dog or animal, or a plurality of same if they are reasonably suspected of the biting, into custody and confine and quarantine same under the supervision of a licensed veterinarian, who shall keep such dog or animal in quarantine until he shall issue his certificate that:
  - a. He has complied with the observation provision of Section 3 of Act 11, First Extraordinary Session of the 1968 Arkansas General Assembly (Rabies Control Act, Ark. Code Ann. 20-19-307); and
  - b. The dog or other animal appear to be free of infection of rabies (hydrophobia).
2. Any dog or other animal having rabies or symptoms thereof, or suspected of having rabies or which has been exposed to rabies shall be immediately released by the owner or custodian of such dog or animal to the animal control officer and the animal control officer shall confine such dog or animal in quarantine as provided for in subsection (A) above.
3. When the licensed veterinarian supervising the quarantine of any dog or other animal quarantined under subsections (A) and (B) shall issue the certificate provided for in subsection (A), the owner of such dog or animal may retake custody of it upon tender to such veterinarian or the city animal control officer of their customary and reasonable fees and charges for impounding, boarding, lodging, observation and testing; except a person who is bitten by an animal while baiting, teasing, or molesting said animal or while trespassing on the premises of the owner or keeper of said animal shall pay all customary and reasonable charges and fees resulting from his request to have said animal confined and quarantined.
4. The fee for quarantining an animal in the Osceola Animal Shelter shall include board of \$10.00 per day, impound fee of \$25.00, cost of rabies vaccination and city license if applicable.

5. If any dog or other animal confined under subsections (A) and (B) is not reclaimed by its owner, such dog shall be released by the veterinarian to the animal control officer who shall treat such dog or animal as one found running at large within the corporate limits of the City. Ord. No. 2004-799.

#### **6.04.09 Vicious Animals Restricted**

1. No person owning, harboring or having the care of a vicious animal shall allow or permit such animal to be kept or brought within the corporate limits of the City. or
2. If a complaint has been filed in the Municipal Court against the owner or harborer of an impounded animal for violation of this section the animal shall not be released except on order of the court, which order may also direct the owner or harborer to pay a fine and all impoundment fees. Upon a finding that such animal is a vicious animal, the court may order the animal to be euthanized in a humane manner. Surrender of an animal by the owner or harborer thereof to the animal control officer shall not render the owner or harborer immune from the fines and fees prescribed by this chapter
3. The provisions of this section shall not apply to animals owned by law enforcement agencies and used for all enforcement purposes. Ord. No. 2004-799.

#### **6.04.10 Keeping Of Wild Animals**

1. No person shall keep or permit to be kept any wild animal as a pet within the corporate limits of the City.
2. No person shall keep or permit to be kept on their premises any wild or vicious animal for display or for exhibition purposes whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses. Ord. No. 2004-799.

#### **6.04.11 Keeping Of Livestock**

1. No person shall keep any horses within the corporate limits of the City, unless the horses are kept in an open area of at least one (1) acre per horse, with no part of the area lying within two hundred fifty (250) feet of any residence.
2. It shall be unlawful for any person to raise or keep cattle, pigs, fowl, sheep, goats and mules within the corporate limits of the city.
3. No person shall keep or permit to be kept on their premises any livestock for display or for exhibition purposes whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses. Ord. No. 2004-799.

#### **6.04.12 Animal Control Officer**

1. There is hereby created the office of animal control officer and shall perform the duties

and exercise the powers prescribed by this chapter. In addition, the animal control officer shall perform such duties as may be delegated to them by the Mayor or City Council.

2. The City's animal control officer is authorized to issue a citation to any person violating any provision of this chapter in the presence of said animal control officer. Ord. No. 2004-799.

#### **6.04.13 Interference with Animal Control Officer Prohibited**

It shall be unlawful for any person to forcibly interfere or forcibly attempt to interfere with the animal control officer or authorized persons in order to hinder him in the performance of their duties. Further, it shall be unlawful for any person to refuse to deliver any unlicensed or unvaccinated animal or any animal observed to be running at large to the animal control officer, or some authorized officer, upon demand for impounding. Ord. No. 2004-799.

#### **6.04.14 Penalty**

Whenever in this chapter an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such chapter the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this chapter shall be punished by a fine of not more than \$500.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day that the same is unlawfully continued. Ord. No. 2004-799.

## **Chapter 6.08**

### **Vicious Dogs**

#### Sections:

|         |                                      |
|---------|--------------------------------------|
| 6.08.01 | Banning of Pit Bull Breeds Of Dogs   |
| 6.08.02 | Publication                          |
| 6.08.03 | Grandfathering                       |
| 6.08.04 | Keeping of registered pit bull dogs  |
| 6.08.05 | Exceptions                           |
| 6.08.06 | Procedure for dealing with violators |
| 6.08.07 | Enforcement                          |

#### **6.08.01 BANNING OF PIT BULL BREEDS OF DOGS**

1. Banned pit bull breeds of dogs are banned entirely and may not be owned or kept within the city. Banned breeds of pit bull dogs are any of the following:
  - a. American Pit Bull Terrier.
  - b. Staffordshire Bull Terrier
  - c. American Staffordshire Terrier
  - d. American Bull Dog.
  - e. Any dog whose sire or dam is a dog of a breed which is defined as a banned breed of dog under this section.
  - f. Any dog whose owner registers, defines, admits or otherwise identifies the dog as being of a banned breed.
  - g. Any dog conforming or substantially conforming to the breed of American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier or American Bull Dog as defined by the United Kennel Club or American Kennel Club.
  - h. Any dog which is of the breed commonly referred to as "pit bull" and commonly recognizable and identifiable as such. Ord. No. 2006-831.

#### **6.08.02 Publication**

For any breed which is banned by subsection (1) of this section, a copy of the standards of the American Kennel Club and United Kennel Club shall be kept on file at the Animal Shelter office and City Hall. Ord. No. 2006-831.

#### **6.08.03 Grandfathering**

The owner of a pit bull dog will have 60 days after passage of the Ordinance to register the animal with the City of Osceola Animal Control pursuant to the following criteria:

1. The owner shall provide proof of rabies vaccination.

2. The owner and/or handler must be at least twenty-one (21) years of age.
3. The owner shall, at his/her own expense, have the animal spayed or neutered and shall present to the Osceola Animal Control documentary proof from a licensed veterinarian that this sterilization has been performed.
4. The owner shall pay an additional \$150.00 annual fee to acquire a City License and Tag. The owner shall notify Osceola Animal Control of any change of address. Licenses may be denied to anyone who has been convicted of a criminal offense or animal cruelty, as well as anyone who lives with someone convicted of those crimes. Ord. No. 2006-831.

#### **6.08.04 Keeping of registered pit bull dogs under subsection "3" of this section**

1. No owner and/or handler shall permit a registered pit bull to go outside its kennel or enclosure unless such dog is securely muzzled and leashed with a leash no longer than 3 feet in length and must be approved by an animal control officer. Chain leashes will not be permitted. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings without the permission of animal control.
2. All registered pit bull dogs shall be securely confined indoors or in a permanent securely enclosed locked pen and a 6 ft. fenced area, except when leashed as provided in subsection (4)(A). All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City of Osceola. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. All property confining pit bull dogs are subject to monthly inspection by animal control.
3. No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen window or screen doors are the only obstacles preventing the dog from exiting the structure.
4. All owners, keepers or harborers of registered pit bull dogs within the City shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition a similar sign is required to be posted on the kennel or pen of such animal.
5. Owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to animal control as required hereinafter:
6. The removal from the city or death of registered pit bull dog.
7. The new address of a registered pit bull dog owner should the owner move within the corporate city limits.
8. No person shall sell, barter or in any other way dispose of a pit bull dog registered with the City to any person within the City unless the recipient person resides

permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog to persons who do not reside within the City and will, therefore, remove the dog outside the City. Upon notification to animal control that the dog has been sold to a person residing outside the City, animal control will make a notation in its files, and the animal will no longer be allowed in the City.

9. There shall be an irrebuttable presumption that any dog registered within the City as a pit bull dog or any of those breeds prohibited by the City code is, in fact, a dog subject to the requirements of this section.
10. Owners, keepers or harborers of registered pit bull dogs within the City are required to carry liability insurance.
  - a. It shall be unlawful for the owner, keeper or harbinger of a pit bull dog registered with the City of Osceola to fail to comply with the requirements and conditions set forth in this Ordinance. Any dog found to be the subject of a violation of the Ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in revocation of the license of such animal, initiation of the procedures set forth in subsection (6) below. Ord. No. 2006-831.

#### **6.08.05 Exceptions**

A banned breed of dog shall not be considered owned or kept in the city if the dog is only brought into the City to a licensed doctor of veterinary medicine located in the city for the purpose of veterinary care, as is necessary for the completion of veterinary care. Ord. No. 2006-831.

#### **6.08.06 Procedure for dealing with violators**

The owner or possessor of any dog found to be in violation of this ordinance shall be guilty of a violation and be subject to punishment of \$500 fine for each violation. Additionally, the Animal Shelter shall handle dogs in violation of this ordinance as follows: Ord. No. 2006-831.

1. The animal will be seized by Animal Control and held for (3) days for the owner to reclaim the dog with a reclamation fee of \$100.00. The owner must sign an affidavit agreeing to immediately move the animal out of the Osceola city limits.
2. If the animal is not reclaimed within 3 days as prescribed by Section 1 (6)(a) it shall be humanely destroyed or adopted out of the Osceola city limits.
3. If the animal is found within the city limits a second time, the owner shall, upon conviction be fined up to \$1,000.00 and shall include seizure of the animal by animal control personnel to be humanely destroyed or adopted out of the Osceola city limits.

#### **6.08.07 Enforcement**



This Ordinance may be enforced by either the City of Osceola Animal Control or Police Departments. Ord. No. 2006-831.

## TITLE 7

### PUBLIC PEACE, SAFETY AND MORALS

#### Chapters:

- 7.04 State Criminal Statutes and Penalties
- 7.08 Fire Regulations
- 7.12 Peddlers and Sales
- 7.16 Juvenile Regulations
- 7.20 Alcohol Regulations
- 7.24 Amusement Establishments
- 7.28 Noise Regulations
- 7.32 Signs

#### **Chapter 7.04**

##### **State Criminal Statutes and Penalties**

#### Sections:

- 7.04.01 State Criminal Statutes and Penalties

#### **7.04.01 State Criminal Statutes and Penalties**

That the City of Osceola, Arkansas, hereby adopts and enact the Statutes of the State of Arkansas defining and prescribing penalties for all offenses under the grade of a felony, with the same force and effect as if each of said statutes were copied in full into separate and distinct ordinances. Ord. No. 317.

#### **Chapter 7.08**

##### **Fire Regulations**

#### Sections:

- 7.08.01 Fire Apparatus Limits
- 7.08.02 Aid Outside Corporate Limits
- 7.08.03 Aid Fees
- 7.08.04 Mutual Aid Agreements
- 7.08.05 Aid, Monies Collection
- 7.08.06 Fireworks
- 7.08.07 Open Burning

### **7.08.01 Fire Apparatus Limits**

No fire department apparatus shall be taken beyond the corporate limits of the city of Osceola, Arkansas, to assist at any fire, or for any other purpose, except by order of the Mayor or Fire Chief, and subject to the restrictions and conditions hereinafter set forth. Ord. No. 417.

### **7.08.02 Aid Outside Corporate Limits**

The Mayor or Fire Chief are authorized, in their discretion, to aid in the extinguishing of fires in another city or town, public institutions, corporations, or other property, within a reasonable distance from the city, or on property immediately adjacent to the city in which there is a possibility of fire spreading within the corporate limits, under the following conditions:

- A. A request from a city or incorporated town for assistance must come only from the Mayor, Fire Chief, or such other person as may be designated by mutual agreement.
- B. Calls may be responded to only by such apparatus which in the judgement of the Mayor or Fire Chief can be safely sent without unduly impairing the fire protection within the city, and when highways and weather conditions are favorable.
- C. The City, incorporated town, public institutions, corporations, or individuals requesting assistance must pay the charge for apparatus and service hereinafter provided unless there exists a mutual aid agreement.
- D. The City, incorporated town, public institutions, corporations, or individual must compensate the city of Osceola, Arkansas, for any loss or damage to such apparatus while answering such call, and be responsible to the members of the fire department of the City of Osceola, Arkansas, for any injuries suffered or incurred by them while responding to such call and while working at such fire. Ord. No. 417.

### **7.08.03 Aid Fees**

1. Unless there exists a mutual aid agreement, every municipality, institution, corporation or individual requesting and receiving such service of the fire department of the City of Osceola, Arkansas, shall pay for such services and the use of apparatus as follows:
  - A. Pumper \$75.00 – If pumper is used, an additional \$25.00 per each half hour or part thereof. That such fee shall be payable to the Municipal Treasury within fifteen (15) days after demand.
2. That each person, firm or corporation receiving services of the fire department, unless there exists a mutual aid agreement, shall pay to the City of Osceola, for each fire driver a sum representing \$3.00 per hour or part thereof, and as to each fireman helping at the fire a sum representing \$2.00 per hour or part thereof, from

the time he reports to the foreman of his company until the time his service ends. The payments herein stipulated shall be made within fifteen (15) days after demand. Ord. No. 417.

#### **7.08.04 Mutual Aid Agreements**

That the Mayor, City Clerk, and Chief of the Fire Department are hereby authorized to enter into mutual aid agreements with other municipalities, firms, corporations or individuals for the rendering of fire service, subject to the following conditions:

- A. The parties with whom such mutual agreement is entered into shall agree to indemnify the City of Osceola against any and all loss, cost and damage which it may suffer or sustain by reason of damage to any apparatus is going to or from the scene of the fire or while at the scene of the fire. The duty to indemnify shall be performed within fifteen (15) days after demand.
- B. As to each fire driver injured while driving to or from the fire or while at the scene of the fire, and as to each fireman helping at the fire, injured between the time he reports to the foreman of his company and the time his service ends, the party entering into such mutual aid agreement shall pay within fifteen (15) days after demand to the City of Osceola a sum sufficient to pay the medical and hospital expenses of such injured driver or fireman. Ord. No. 417.

#### **7.08.05 Aid, Monies Collection**

Monies collected under the terms of this ordinance shall be paid to the respective fire drivers and firemen as to whom such collections were made in proportion to the amount of time applicable to them respectively. Ord. No. 417.

#### **7.08.06 Fireworks**

1. After the effective date of this Ordinance it shall be unlawful for any person, firm or corporation to hold and keep for sale any fireworks within the city limits of the City of Osceola.
2. Any person, firm or corporation who shall be found guilty of violating the provisions of section one {1} above shall for each offense be fined the sum of one hundred and no/100 dollars {\$100.00), and each day the same is violated shall constitute a separate offense.
3. Hereafter, it shall be unlawful for any person, persons, firms, or corporations to shoot fireworks of any form or kind within the city limits of the City of Osceola, Arkansas, and anyone found guilty hereof shall be fined the sum of twenty five and no/100 dollars (\$25.00), and each violation shall constitute a separate offense. Ord. No. 1999-747.

#### **7.08.07 Open Burning**

1. No person shall cause or permit the open burning of refuse, garbage, trade waste, or other waste material within the City of Osceola, unless allowed by the Fire Department Chief by issuance of an Open Burning Permit.
2. Any person maintaining a fire shall extinguish the fire immediately if directed to do so by either an officer with the Osceola Fire Department, Osceola Police Department, or Osceola Code Enforcement Officer.
3. If the owner or occupant shall neglect or refuse to immediately extinguish the fire, the City is authorized to do whatever is necessary to correct the condition and to charge the cost thereof to the owner or occupant for the cost of so doing.
4. The City shall first attempt to educate the violator with respect to fire safety and the contents of this Ordinance before issuing a citation for a violation of this Ordinance. If a person refuses to abide by a request to extinguish a fire, a citation may be issued to a person in violation of this ordinance which shall be a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and not less than One Hundred Fifty Dollars (\$150.00). Ord. No. 2011-891.

## Chapter 7.12

### Peddlers and Sales

#### Sections:

|         |                     |
|---------|---------------------|
| 7.12.01 | Itinerant Merchants |
| 7.12.02 | Parade Regulations  |
| 7.12.03 | Rummage Sales       |

#### **7.12.01 Itinerant Merchants**

1. The sale of merchandise or goods in the City of Osceola by itinerant or roadside solicitors, peddlers, hawkers, merchants or transient vendors of merchandise is declared to be a nuisance and unlawful and punishable as hereinafter set out. The issuance of a Permit and the making of a bond as hereinafter provided, shall not diminish the requirements of this section. Ord. No. 1993-677.

2. The provisions of this Ordinance shall not apply to the sale, or soliciting of orders for the sale of fruits, vegetables or other products of the farm, including meats from domestic animals or livestock, so far as the sale of the commodities named herein is now authorized by law. The provision of this Ordinance is not intended to prohibit the sales of merchandise by individuals who have regularly established sales routes within the City of Osceola or who have been invited on to the premises by the owner or occupant of said premises. Ord. No. 1993-677.

3. Itinerant solicitors, peddlers, hawkers, merchants, vendors of merchandise and/or services shall be required to pay a fee of \$250.00 per day to the Chief of Police of the City of Osceola, Arkansas, for the privilege of conducting such business within the City of Osceola, Arkansas. Itinerant solicitors, peddlers, hawkers, merchants, vendors of merchandise and/or services are also required to enter into a bond with good and sufficient surety to the City of Osceola for the use and benefit of its citizens to insure performance of service, delivery or merchandise. Further, each such applicant shall present evidence that such applicant has been issued an Arkansas state sales tax number. Finally, itinerant solicitors, peddlers, hawkers, merchants, vendors of merchandise and/or services shall provide to the chief of Police a copy of written permission from the property owner of the property on which such itinerant sales shall occur prior to the Chief of Police of the City of Osceola, Arkansas, allowing such itinerant sales to occur. Upon the applicant's full compliance with all requirements contained in this section, the Chief of Police shall issue a permit to such person allowing them to carry on their itinerant business for the applied for day. Ord. No. 2001-769.

4. The bond shall be made in advance and any active soliciting, peddling, hawking or vending, and must be in an amount approved by the Chief of Police of Osceola, in accordance with the reasonable rules and regulations promulgated and published by him. Ord. No. 1993-677.

5. In determining the amount of this bond, the Chief of Police shall take into account the sums of money likely to be collected or value of merchandise to be delivered. Ord. No. 1993-677.

6. In no event shall the amount required be more than is necessary to effectuate the purposes of this Ordinance. The Chief of Police of the City of Osceola is empowered to

administer the provisions of the Ordinance. Ord. No. 1993-677.

7. Violation of this Ordinance or any provision hereof shall constitute a misdemeanor, and any person, firm, corporation or organization violating the same shall be fined a minimum of \$100.00 for the first violation and a sum not exceeding \$500.00 for subsequent violations of this Ordinance. Ord. No. 1993-677.

### **7.12.02 Parade Regulations**

1. No person, organization, group, corporation, partnership, or sect shall parade, demonstrate, exhibit or organize or participate in directly or indirectly, any public parade, public demonstration or public exhibition of any kind or nature within the City of Osceola, Arkansas, without procuring, (2) hours in advance thereof, a written permit authorizing the parade, demonstration or exhibition, from the Mayor of the City of Osceola, Arkansas, or his duly delegated representative. Ord. No. 359.

2.

- A. The term "Parade" as herein used is defined to be a column or line of persons (or objects under their control or under the control of either of them), of more than five in number, moving upon any street, sidewalk or upon private or public property which would attract public attention
- B. The term "Demonstration" as herein used is defined to be any display of one or more persons which would attract public attention.
- C. The term "Exhibition" as herein used is defined to be any display of one or more persons which would attract public attention. Ord. No. 359.

3. Any person, organization, association, corporation, group, partnership or sect violating any provision of this ordinance shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00), together with costs of such prosecution, or by imprisonment of not more than (1) year or by both fine and imprisonment. Each violation shall constitute a separate offense. Ord. No. 359.

### **7.12.03 Rummage Sales**

1. Definitions

- A. Rummage sales shall be defined, for the purpose of this ordinance, as the offering for sale of merchandise by a person, firm or corporation from an area not firmly established as a place of business, or offering for sale of merchandise on a part time basis.
- B. Garage sales shall be defined, for the purpose of this ordinance, as the offering for sale of merchandise by a person, firm or corporation from a dwelling or other structure in the residential neighborhood.
- C. Yard sales shall be defined, for the purpose of this ordinance, as the offering for sale of merchandise by a person, firm or corporation from the premises, vacant lot, or other open area in the City of Osceola, Arkansas.

2. That all rummage, garage and/or yard sales conducted within the City of Osceola,

Arkansas, hereafter must be conducted in accordance with the following regulations:

- A. Rummage, garage and/or yard sales conducted by individuals in areas of the City of Osceola zoned Residential shall be limited to two (2) annual sales for each individual property owner.
  - B. Rummage, garage and/or yard sales conducted by businesses shall be conducted within areas of the City of Osceola zoned Commercial or Industrial only and shall not be conducted in residential areas.
  - C. Rummage, garage and/or yard sales conducted by individuals or businesses in areas of the City of Osceola zoned Commercial or Industrial shall be limited to two (2) such sales in any twelve-month period.
  - D. Each business or individual who desires to conduct such rummage, garage and/or yard sales must first pay a fee of \$5.00 for each day said rummage sale is to be conducted, said fee to be paid and permit obtained from the City of Osceola Collector's Office, which permit must be publically displayed at the location of said sale.
  - E. That churches and other nonprofit organizations shall be permitted to conduct not more than two (2) rummage, garage and/or yard sales during any six month period within any commercial or residential area of the City of Osceola and shall be exempt from said \$5.00 per day after first obtaining a permit from the City's Collector's Office.
  - F. That nonresidents of the City of Osceola, Arkansas, shall not be permitted nor received a permit to conduct a rummage, garage and/or yard sale in any area of the City of Osceola, Arkansas, zoned Residential.
  - G. No merchant, shopping center or other business enterprise shall permit or allow rummage or similar offers of sale, not directly a part of their or it's licensed business, to occur on its or their premises or parking area without causing the individual responsible for the rummage or similar offers of sale to obtain a separate permit for such offers of sale of rummage merchandise. Each permit shall require a fee of \$10.00 per day, for residents of Osceola and \$150.00 per day for non- residents of Osceola. Each permit holder may have one additional individual, who shall be listed on the permit, assisting such permit holder. Permits shall not allow sales to be conducted except at the address for which the permit was procured.
3. Any person violating the ordinance shall be guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than \$25.00 nor more than \$100.00 and each day the violation occurs shall be considered a separate offense. Ord. No. 1980-531.



## Chapter 7.16

### Juvenile Regulations

#### Sections:

7.16.01 Curfews

#### **7.16.01 Curfew Hours**

1. It shall be unlawful for any person under the age of eighteen (18) years to be or to remain in or upon any of the streets, alleys or public places in the City at night, after the hours of 11:00 o'clock P.M., Sunday through Thursday nights, and after 12:30 o'clock A.M. on Saturday and Sunday mornings, unless such person is accompanied by a parent, guardian or other adult person responsible for or having legal custody of such minor person; or such minor's gainful employment makes it necessary for such minor to be upon said streets, alleys or other public places after the specified hours; or on an emergency errand sanctioned by the parent, guardian or other adult person responsible for or having legal custody of such minor, stating the reason such minor is in a public place after curfew.
2. The fact that said minor, unaccompanied by a parent, guardian or other adult person responsible for or having the legal custody of the said minor, is found upon any street, alley or other public place after the specified hours shall be prima facie evidence that the minor is there unlawfully, and that no reasonable excuse exists therefor.
3. Any person under the age of eighteen (18) years violating the provisions of this Section shall upon conviction, be fined in a sum not to exceed Fifty Dollars (\$50.00) for each offense. Ord. No. 1988-616.

#### **7.16.02 Parent Penalties**

It shall be unlawful for any parent, guardian or other adult person responsible for or having the lawful care, custody and control of any person under the age of eighteen (18) years to allow, permit or suffer such minor to violate the provisions of Section 1 of this Ordinance.

Any such person who permits, allows or suffers said minor to violate the provisions of Section 1 shall, upon conviction, be fined the sum of One Hundred Dollars (\$100.00) for the first offense, and double the previous fine for any succeeding offense. Ord. No. 1988-616.

#### **7.16.03 Amusement Curfews**

It shall be unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or other place of business, to permit any minor under the age of eighteen (18) years to loiter, loaf or idle in such place, or on the premises, during the hours prohibited by Section 1 of this Ordinance. When such owner, operator or person in charge of such place of business shall find such a minor or minors under the age of eighteen (18) years on

the premises, he shall order such person to leave, and if such minor refuses, the owner or operator shall notify the Police Department and inform it of such violation. Ord. No. 1988-616.

#### **7.16.04 Curfew Penalty**

Any person who shall violate this Section shall, upon conviction, be fined in a sum not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00). Ord. No. 1988-622.

#### **7.16.05 Curfew Exception**

In the event any community, civic, charitable, or other such organization sponsors a prom, dance, or other activity, which will prohibit compliance with the hours of curfew, the participants attending said activity shall be exempted from the requirements of Ordinance No. 1988-616, provided that the sponsor of such activity notifies the Osceola Police Department of said activity within three (3) days prior to the date of the scheduled event, and same is approved, in writing, by the Chief of the Osceola Police Department. Ord. No. 1988-616.

## Chapter 7.20

### Alcohol Regulations

#### Sections:

|         |                             |
|---------|-----------------------------|
| 7.20.01 | Providing Alcohol to Minors |
| 7.20.02 | Private Club Hours          |

#### **7.20.01 Providing Alcohol to Minors**

1. It shall be unlawful for any person under the age of twenty-one (21) years to attempt to purchase any alcoholic beverage, including, but not limited to, beer, liquor, and wines, from any area merchant or establishment that engages in the sale of alcoholic beverages, regardless of whose consumption the alcoholic beverage is alleged to be for. Ord. No. 1988-621.
2. Any person under the age of twenty-one (21) years convicted of a first offense for a violation of this Section shall be fined the sum of One Hundred and no/100 Dollars (\$100.00), plus costs of Court. A second conviction for the violation of this Section shall result in a fine of Two Hundred Fifty and no/100 Dollars (\$250.00), plus costs of Court. Any person under the age of twenty-one (21) years convicted of three (3) or more violations of this Section shall be fined the sum of Five Hundred and no/100 Dollars (\$500.00), plus costs of Court. Ord. No. 1988-621.

#### **7.20.02 Private Club Hours**

1. That from and after the date of the passage and approval of this Ordinance, all private clubs currently licensed to dispense alcoholic beverages to the public pursuant to the provisions of Act 132 of 1969 and Act 386 of 1973, as amended and those private clubs which shall in the future become licensees under said Acts, shall close and terminate all dispensing of alcoholic beverages at 1:00 o'clock A.M. Tuesday through Friday, and 2:00 o'clock A.M. on Saturday and 1:00 o'clock A.M. on Sunday. The hours of operation and dispensing of alcoholic beverages on Sunday shall only be permitted between the hours of 11:00 o'clock A.M. and 9:00 o'clock P.M. No dispensing of alcoholic beverages by private clubs shall be permitted before 7:00 o'clock A.M. Monday through Saturday. Ord. No. 1990-630.
2. That any person, firm or corporation who shall violate the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction may be fined not more than One Thousand Dollars (\$1,000.00), and may, in the discretion of the Court, be imprisoned for not more than six (6) months. Each violation shall constitute a separate offense. Ord. No. 1990-632.

## Chapter 7.24

### Amusement Establishments

#### Sections:

|         |                     |
|---------|---------------------|
| 7.24.01 | Definitions         |
| 7.24.02 | License Required    |
| 7.24.03 | License Application |
| 7.24.04 | License Termination |
| 7.24.05 | Penalties           |

#### **7.24.01 Definitions**

For purposes of this ordinance, the term "Amusement Establishment" shall include, but not be limited to video arcades, pool halls, skating rinks, dance halls, clubs, etc., but shall not include establishments regulated by the Arkansas Alcohol and Beverage Control Commission. Ord. No. 2000-758.

#### **7.24.02 License Required**

Hereafter, it shall be unlawful for any person or entity to operate an amusement establishment within the city limits of the City of Osceola, Arkansas until they have first obtained a license from the city recorder/treasurer to operate such business. The License required herein shall be in addition to the privilege tax license required to operate such business. Ord. No. 2000-758.

#### **7.24.03 License Application**

In order to obtain a license hereunder, the applicant must:

- a. Demonstrate that the proposed site of the amusement establishment has adequate off street parking for all expected patrons of said establishment;
- b. Post "No Loitering" signs in the parking lot of said establishment and the applicant must agree in writing to keep the parking lot of said establishment free from loiterers;
- c. Agree in writing to close said establishment on Sunday through Thursday evenings on or before 10:30 p.m., and on Friday evenings at 12:00 p.m.; and
- d. Agree in writing that no other business of any kind shall be operated on the same site as the amusement establishment.
- e. No person shall establish, maintain or operate an amusement establishment unless all rooms are lighted to a minimum of fifteen (15) foot candles, thirty (30) inches above the floor in all parts of such rooms, places or portions thereof.
- f. No speakers, music or other entertainment equipment shall exceed above 99 decibels in the amusement establishment in all such rooms, places or surrounding premises or portion thereof.

- g. No smoking or any alcoholic beverages shall be permitted in all parts of such rooms, places, or surrounding premises or portions thereof.
- h. No profanity of language or entertainment such as, but not limited to music, shall be allowed at any time in all parts of such rooms, places or surrounding premises or portions thereof.
- i. Absolutely no loitering, standing or cluttering outside establishment or surrounding premises or portions thereof.
- j. All such places of entertainment must provide Security Personnel, at the owner's expense. Each security person must hold a letter of clearance from the Osceola Police Department stating that they have passed a background check. To be qualified for the letter of a clearance, a person must meet the following guidelines:
  - i. Must not have a felony conviction, or misdemeanor battery conviction.
  - ii. Must not have a drug or batter charge pending.
  - iii. Must be at least twenty-one (21) years of age.
- k. Security personnel must be uniformed. They shall be dressed in uniforms clearly marked "Security". They may not be armed with firearms; unless they are a certified police officer and they have permission from the Osceola Police Chief to carry such a weapon.
- l. Security personnel must cooperate fully with law enforcement to keep peace or investigate any criminal activity. They must keep the outside of the establishment free from loiters and must keep the inside of the establishment orderly. Ord. No. 2003-791

#### **7.24.04 License Termination**

In the event that any of the conditions or requirements stated in Section 3 hereof are violated at any time by the entity holding the license hereunder, then the license previously issued hereunder shall be automatically terminated upon notice of such by the Chief of Police of the City or his duly appointed representative to the license holder. After such license is terminated, it shall be unlawful for such entity to continue to operate such amusement establishment. After a period of six months, the entity previously holding such license may apply to the City Council to request a new license. Ord. No. 2000-758.

#### **7.24.05 Penalties**

Any entity or person who violates any provision of this ordinance, including, but not limited to the conditions or requirements set forth in Sections 3 and 4 hereof, shall be guilty of a violation of this ordinance, and upon conviction thereof, shall be punishable by a fine of not less than \$100.00 and each day such violation occurs or shall continue, shall be considered a separate offense. Ord. No. 2000-758.

## **Chapter 7.28**

### **Noise Regulations**

#### Sections:

7.28.01            Disorderly Conduct

#### **7.28.01 Disorderly Conduct**

1.     It shall be unlawful and a person commits the offense of disorderly conduct-loud music if, with the purpose to cause public inconvenience, annoyance, or alarm or recklessly creating a risk of public inconvenience, annoyance, or alarm, he or she makes unreasonable or excessive noise. No person, firm, or corporation shall operate a radio or other sound producing or sound-amplifying instrument so as to emit loud and raucous noises or create noise or sound as to disturb the peace and quiet of a neighborhood or as to interfere with the transaction of business or other ordinary pursuits. It shall be a violation of this section if the noise or loud music complained of is plainly audible by an individual that is located more than 25 feet from the source of the noise or loud music. Ord. No. 2008-854.
2.     Any individual who violates the terms of this Ordinance shall be guilty of a violation of this Ordinance and upon conviction thereof, shall be assessed a fine not to exceed \$100.00. Ord. No. 2008-854.

## Chapter 7.32

### Signs

#### Sections:

|         |                                  |
|---------|----------------------------------|
| 7.32.01 | Political Campaign Signs         |
| 7.32.02 | House Numbers                    |
| 7.32.03 | Signs attached to Poles or Trees |

#### **7.32.01 Political Campaign Signs**

1. All political campaign signs placed within the city limits of the City of Osceola, Arkansas, by a candidate for political office, shall be completely removed by such candidate for political office within seven (7) days after the election for such office is held.
2. That said political campaign signs shall not be placed so as to obstruct the vision of motorists on any roadway in the City of Osceola, Arkansas.
3. That violations of this Ordinance shall be punishable by a fine not exceeding \$100.00 per day for each day such ordinance is violated. Ord. No. 1992-659.

#### **7.32.02 House Numbers**

1. That all residences within the City of Osceola Arkansas, shall display a house number.
2. That all house numbers placed on residences within the City Limits of the City of Osceola, shall be (4") inches high and be clearly visible from the street.
3. That said house numbers shall be placed in a location on said residence which would be clearly visible from the street in order to enable the City of Osceola Police Department or the City of Osceola Fire Department to more promptly respond to calls for assistance within the City of Osceola.
4. That violations of this Ordinance shall be punishable by a fine not exceeding \$25.00 per day for each day said Ordinance is violated. Ord. No. 1993-674.

#### **7.32.03 Signs attached to Poles or Trees**

1. It shall be unlawful for any person, firm, corporation, or association to nail, staple, or otherwise attach or cause to be nailed, stapled, or otherwise attached to any sign, poster, or billboard to any public utility pole or to any living tree, shrub, or other plant located upon the rights of way of any public road, highway, or street in the City of Osceola, Arkansas; provided, however, that the above prohibition shall not apply to warning, safety or identification signs attached to public utility poles by utility companies or cooperatives.

2. Any person, firm, or cooperation or association violating the provisions of this Ordinance shall be guilty of misdemeanor and upon conviction thereof shall be fined not more than \$25.00, and each day that any such violation shall continue shall constitute a separate offense.



## **TITLE 8**

### **VEHICLES AND TRAFFIC**

#### **Chapters:**

8.04 Traffic Regulations

#### **Chapter 8.04**

#### **Traffic Regulations**

#### **Sections:**

8.04.01 Hazardous Driving  
8.04.02 Careless Driving  
8.04.03 Jaywalking

#### **8.04.01 Hazardous Driving**

1. Hazardous driving is defined as the operation of a motor vehicle upon the streets, highways, alleys, public parking, lots, private parking lots or upon private property within the City Limits of Osceola, Arkansas, in such a manner as to indicate a disregard for persons, property, traffic controls and conditions then present. Hazardous driving includes, but is not limited to the following:
  - A. Starting or stopping a vehicle in such a manner that the tires of the motor vehicle lose traction and the vehicle slides from side to side, swerves or otherwise deviates from its normal direct course or direction of travel.
  - B. Failure to maintain proper control of the vehicle at all times when the same is moving.
  - C. Application of power or accelerating a vehicle unnecessarily as to cause the wheels to spin on the surface it is operating, producing noise and/or skidding or sliding.
  - D. Starting, stopping, slowing or turning a vehicle, unnecessarily, or so quickly, in such a manner as to produce the squealing, skidding or sliding of the wheels or tires.
  - E. Operating a motor vehicle on a multi-lane street or highway by cutting in and out of other vehicular traffic moving in the same direction, erratically changing lanes and passing other vehicles.
  - F. Operating a motor vehicle in any other manner that manifests indifference to the safety to persons, property, traffic controls or conditions present at that time.

2. For the purpose of this ordinance, “motor vehicle means any vehicle which is self-propelled, including a motorcycle, automobile, truck, bus, tractor, tractor-trailer, or other gas, diesel or electrically propelled motor vehicle.
3. Every person convicted of hazardous driving shall be guilty of a misdemeanor and shall be fined not less than \$25.00 and not more than \$200.00. Ord. No. 1977-509.

#### **8.04.02 Careless Driving**

1. It shall be unlawful for any person to operate a motor vehicle in a careless or inattentive manner or in disregard of the safety of persons or property.
2. Inattentive driving shall be considered a lesser offense than reckless driving and shall be applicable in those circumstances where the conduct of the operator has been inattentive, careless or imprudent, in light of the circumstances then existing, rather than heedless or wanton or in those cases where the danger to persons or property by the motor vehicle operator's conduct is slight.
3. Any individual who violates the terms of this Ordinance shall be guilty of a Class C misdemeanor, which carries a penalty upon conviction of a fine not to exceed \$100.00 and a sentence in the city jail not to exceed 30 days. Ord. No. 2000-757.

#### **8.04.03 Jaywalking**

1. It shall be unlawful for any person to enter and remain in a street or roadway except at marked crosswalks or stop signs for the purpose of crossing the street.
  - A. An exception shall be allowed for persons travelling by wheelchair and where there are no sidewalks or areas adjacent to the street or roadway suitable for wheelchair traffic. In those instances, the person travelling by wheelchair shall be allowed to travel in the street or roadway. However, the person-travelling by wheelchair shall travel facing the oncoming traffic and shall travel as close to the curb or shoulder of the road as is possible to reduce the interruption of the flowing traffic as little as possible.
  - B. An exception shall also be allowed for persons to walk within the street or roadway where there are no sidewalks or areas adjacent to the street or roadway suitable for pedestrian traffic. However, those persons walking within the street or roadway shall travel facing the oncoming traffic and shall walk as close to the curb or shoulder of the road as is possible to reduce the interruption of the flowing traffic as little as possible. When there is more than one person walking together, they shall walk in single file, one behind the other, to limit their encroachment on the street or roadway.

2. Any person violating the provisions of this Ordinance shall be guilty of a violation of this Ordinance and upon conviction thereof, shall be assessed a fine not to exceed one hundred (\$100.00) dollars.
3. Notwithstanding the provisions of this Ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. Ord. No. 2008-855.

## TITLE 9

### STREETS AND SIDEWALKS

#### Chapters:

9.04 Streets, Alleys, and Sidewalks

#### **Chapter 9.04**

#### **Streets, Alleys, and Sidewalks**

#### Sections:

9.04.01 Parking Regulations

#### **9.04.01 Parking Regulations**

1. It shall be unlawful for any person to park a motor vehicle on Hale Avenue between Ash and Maple Streets for the duration of more than two (2) hours.
2. It shall be unlawful for any person to park a motor vehicle on Pecan Street, Railroad Street, Poplar Street and Walnut Street in an area one block north and south of Hale Avenue for the duration of more than two (2) hours.
3. The foregoing limitations on parking set forth in Sec. 1 and 2 shall apply during all days of the week except Sunday and only between the hours of 8:00 a.m. and 6:00 p.m.
4. It shall be unlawful for any person to park a motor vehicle on Hale Avenue between Ash and Maple Streets in any manner other than parallel to the curb along said streets and only within designated areas for parking.
5. Any person violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than one dollar (\$1.00) nor more than ten dollars (\$10.00). Ord. No. 416

#### **9.04.02 Regulating the Parking of Motor Homes, Recreational Vehicles, Campers, Boats, Trailers, Buses, Construction Equip, and Off-Road Vehicles on City Streets**

1. It shall be unlawful for the owner, owners, or any person having charge and or control of the above said vehicles, equipment and items, to park or store them on a city street, public right-of-way or alleyway except under the following

circumstances:

- A. The parking of the above said vehicles, equipment and items shall be of a temporary nature not to exceed three (3) hours in duration.
  - B. Temporary parking of the above said vehicles, equipment and items shall not be done in a manner as to unnecessarily impede the flow of traffic, block driveways or fire hydrants and shall not be closer than sixty (60) feet to a stop sign. Ord. No. 2008-847.
2. Exceptions
- A. Parking of vehicles, equipment and items being used in the construction or repair of streets and utilities may exceed three (3) hours in duration when it is necessary to complete the construction or repair of streets or utilities.
  - B. Parking of vehicles, equipment and items on city streets, right-of-ways and alleyways that are being used in the course of medical, fire department and police department emergencies, procedures & actions may exceed three (3) hours in duration when it is necessary to complete the procedures and actions required.
  - C. Parking of service vehicles including, but not limited to, postal vehicles, meter reader vehicles, moving vans, delivery trucks and other types of service vehicles may exceed three (3) hours when it is necessary and essential for the providing of that particular service. Ord. No. 2008-847.
3. A person being found in violation of this ordinance shall be fined not less than twenty-five (\$25.00) dollars and not more than one hundred (\$100) dollars; and each day such violation occurs or shall continue shall be considered a separate offence. Ord. No. 2008-847.

#### **9.04.03 Tractor Trailers**

1. From and after this date it shall be unlawful for any person, either the owner or operator, to park tractors and trailers, "18 wheelers", or either tractors or trailers, on the streets of Osceola in residential areas for more than 20 minutes during the daylight hours or more than 5 minutes in the nighttime.
2. From and after this date it shall be unlawful for any person, owner or operator, to operate any self-contained refrigeration unit on tractors, trailers or on tractors and trailers parked on the street in any residential area of the City of Osceola.
3. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined any sum of not less than \$25. 00 nor more than \$100.00 and each day the violation occurs shall be considered a separate offense. Ord. No. 1981-546.

#### **9.04.04 New Construction of Sidewalks**

1. That any new residential or commercial structures constructed in the City of

Osceola, after the date this Ordinance is adopted, are to include sidewalks on the side of the lot which abuts a street. Ord. No. 1992-661.

2. That the sidewalks constructed in compliance with this Ordinance will meet the following specifications:
  - A. Sidewalks shall be a minimum of three and one-half (3 ½) feet wide and four (4) inches deep;
  - B. Sidewalks shall be constructed of 3500 psi concrete installed on compacted subgrade;
  - C. Sidewalks shall be installed the full width of the lot and in a manner as to give adequate drainage (1/4 inch per foot) toward the street;
  - D. Corner lots must have sidewalks installed on both sides of the lot that abuts street rights-of-way; and
  - E. Expansion joints must be placed at no more than fifty (50) foot intervals. Ord. No. 1992-661.
3. That the final inspection of any residential or commercial structure shall not occur until this Ordinance has been complied with. Ord. No. 1992-661.

#### **9.04.05 Sidewalk Exceptions**

1.
  - A. In the event the owner or occupant of the property on which the new structure is to be built in the City of Osceola wishes to exclude sidewalks in the construction of said structure, such owner or occupant shall make a written request to the Planning Commission for an exemption from Ordinance No. 1992-661. 1994-694.
  - B. Any written request for an exemption from Ordinance No. 1992-661 shall be made at least ten (10) days prior to the next Planning Commission meeting. 1994-694.
  - C. That the owner or occupant submitting such written request shall be placed on the agenda for the next Planning Commission meeting and shall appear and present evidence to the Planning Commission to support the request for such exemption. 1994-694.
  - D. That after considering such evidence presented, the Planning Commission shall make a recommendation to the Osceola City Council concerning the request for exemption. 1994-694.
  - E. That the Osceola City Council will review said recommendation and either grant or deny the request for such exemption. 1994-694.
  - F. That upon a decision by the Osceola City Council to either grant or deny the request for said exemption, the Osceola City Council shall notify the owner or occupant submitting such request of its decision, and the owner

or occupant shall be bound by the decision of the City Council. 1994-694.

2.
  - A. The residences and/or lots located in the 100, 200 and 300 blocks of South Brickey Street be exempted from the requirement to construct sidewalks. Ord. No. 2001-768.
  - B. The 300 Block of Betty Lynn be exempted from the requirements to construct sidewalks. Ord. No. 2002-775.
  - C. That 9040 North Pearl be exempted from the requirements to construct sidewalks. Ord. No. 2002-778.

#### **9.04.06 New Structures**

1. That any new residential or commercial structures constructed in the city of Osceola, after April 13, 1992, are to include sidewalks on the side of the lot which abuts a street. That when any existing property owner with existing sidewalks on such property purchases an adjacent vacant lot after April 13, 1992, such property owner shall be required within 90 days after purchasing such vacant lot, to have a sidewalk constructed on the side of such vacant lot which abuts the street in such a manner as to connect to the existing sidewalks on the property owners' existing property.
2. This ordinance shall be retroactive to April 13, 1992. Ord. No. 2001-772.

# **TITLE 10**

## **UTILITIES**

### **Chapters:**

- 10.04 Utility Rates
- 10.08 Garbage Regulations
- 10.12 Backflow Regulations
- 10.16 Wellhead Protection
- 10.20 Miscellaneous

### **Chapter 10.04**

#### **Utility Rates**

### **Sections:**

- 10.04.01 Water Rates
- 10.04.02 Sewer Rates
- 10.04.03 Tap Fees
- 10.04.04 Review And Report

#### **10.04.01 Water Rates**

That the following monthly rates be, and they are hereby fixed as rates to be charged for water furnished by the Water System Facilities for the City of Osceola, Arkansas, which rates the Council finds and declares to be reasonable and necessary minimum rates to be charged:

The water usage of each customer shall be determined each month by meter measurement and the amount to be paid by each customer shall be computed on the basis of the following scheduled rates, which rates shall become effective January 1, 2000:

#### **(a) Residential and Commercial Water Rates (In City Limits)**

| <b>Volume</b>                          | <b>Charge</b>         |
|--|-----------------------|
| First 1,500 gallons or portion thereof | \$5.25 minimum        |
| Next 1,000 gallons or portion thereof  | \$0.50 per 1,000 gal. |
| Next 7,500 gallons or portion thereof  | \$2.10 per 1,000 gal. |
| Over 10,000 gallons                    | \$1.80 per 1,000 gal. |

#### **(b) Residential and Commercial Water Rates (Outside City Limits)**



| <b>Volume</b>                          | <b>Charge</b>         |
|--|-----------------------|
| First 1,500 gallons or portion thereof | \$7.87 minimum        |
| Next 1,000 gallons or portion thereof  | \$0.75 per 1,000 gal. |
| Next 7,500 gallons or portion thereof  | \$3.15 per 1,000 gal. |
| Over 10,000 gallons                    | \$2.70 per 1,000 gal. |

**(c) Industrial Water Rates (In City Limits)**

A \$5.00 customer charge per month per meter.

| <b>Volume</b>  | <b>Charge</b> |
|--|---------------|
| First 100,000 gallons at a rate of \$1.50 per 1,000 gal. |               |
| Over 100,000 gallons at a rate of \$1.40 per 1,000 gal.  |               |

**(d) Industrial Water Rates (Outside City Limits)**

A \$7.50 customer charge per month per meter.

| <b>Volume</b>  | <b>Charge</b> |
|--|---------------|
| First 100,000 gallons at a rate of \$2.25 per 1,000 gal. |               |
| Over 100,000 gallons at a rate of \$2.10 per 1,000 gal.  |               |

That the following monthly rates and charges which the City Council hereby finds and declares are fair, reasonable and necessary minimum rates be, and they are hereby, reestablished and confirmed as rates to be charged for sewer services to be rendered by the System. Ord. No. 1999-751.

**10.04.02 Sewer Rates**

**(a) Residential Sewer Rates (In City Limits)**

1. Established Residential Customers shall have a sewer rate of 100% of the average metered water bill for the previous months of December, January, and February is established.
2. New Residential Customers sewer rates shall be 100% of the metered water bill for the previous month until a history of the months of December, January and February is established .

**(b) Residential Sewer Rates (Outside City Limits)** A Residential Customer's sewer rate outside the city limits shall be 150% of the metered water bill for the previous month.

**(c) Commercial and Industrial Sewer Rates (Inside City Limits)** Commercial and Industrial sewer rates shall be 100% of the metered water bill for the previous month.

**(d) Commercial and Industrial Sewer Rates (Outside City Limits)**  
Ord. No. 1999-751.

**10.04.03 Tap Fees**

That the following tap fees be, and they are hereby fixed as fees to be charged by the Water and Sewer Systems Facilities of the City of Osceola, Arkansas, which fees the Council finds and declares to be reasonable and necessary minimum rates to be charged.

| (a) Water    |            |               |
|--------------|------------|---------------|
| Service Size | Meter Size | Fee           |
| 3/4"         | 3/4"       | \$160.00      |
| 1"           | 3/4"       | 170.00        |
| 1"           | 1"         | 190.00        |
| 2"           | 2"         | 375.00        |
| Above 2"     |            | Cost plus 10% |

| (b) Sewer     |               |
|---------------|---------------|
| Service Size  | Fee           |
| 4" normal tap | \$160.00      |
| All others    | Cost plus 10% |

#### **10.04.04 Review And Report**

That water and sewer production, distribution and operational cost be reviewed and a report of the previous year be presented—to the City Council of the City of Osceola by no later than September of each year. Ord. No. 1999-751.

## **Chapter 10.08**

### **Garbage Regulations**

#### Sections:

- 10.08.01 Garbage Collection
- 10.08.02 Garbage Department, Created
- 10.08.03 Garbage, Defines
- 10.08.04 Garbage Collection
- 10.08.05 Garbage Cans
- 10.08.06 Apartments
- 10.08.07 Receptacles
- 10.08.08 Garbage Littering
- 10.08.09 Receptacle Placement
- 10.08.10 Materials not Picked up
- 10.08.11 Garbage Pick up
- 10.08.12 Garbage Rates
- 10.08.13 Responsibility for Payment
- 10.08.14 Collector designated; billing; funds
- 10.08.15 Reservation of power in City Council
- 10.08.16 Bagging Various Items
- 10.08.17 Time and Placement of Garbage
- 10.08.18 City Dumpsters
- 10.08.19 Commercial Dumpsters

#### **10.08.01 Garbage Collection**

- A. All garbage, waste, trash and refuse within the city shall be collected regularly by the city, and no other person shall be allowed to collect same.
- B. The City will furnish fifty plastic bags, each resident and apartment, of the type and quality required, two time each year, in January and in July, (the cost of which is included in the garbage fee) and after the supply of bags furnished by the City is exhausted, the owner or his agent or occupant, shall furnish any additional plastic bags required to meet the provisions of the ordinance, at his, it or her own expense.

It shall be the duty of each and every householder to place the same in an easily accessible appoint near the curb for collection by the City sanitary department on such day or days as may be assigned to that area of the city. Ord. No. 1975-488.

#### **10.08.02 Garbage Department, Created**

There is hereby created a garbage and sanitation department, hereinafter referred to as “Garbage Department,” to be under the supervision and maintenance of the mayor, or such other competent person as may be selected by him. Ord. No. 436, Sec. 1.

#### **10.08.03 Garbage, Defines**

The term “garbage” is hereby defined to mean all putrescible wastes, except swage and body wastes, including vegetable and animal offal and carcasses of dead animals; kitchen garbage which is the animal and vegetable refuse from the kitchen, meat shops, fruit stands, soda fountains, restaurants hotels, and similar places; ashes, cinders, slack, which are the refuse matter from stoves, furnaces, fire-places; rubbish, which consists of worn-out household articles, rags, paper, broken crockery, tin cans, and old metal; yard sweepings, which are composed of paper, dust, lawn clippings, leaves, weeds, grass, sticks, and stable manure; store waste, which is composed of boxes, barrels, tubs, cartons, floor sweepings and paper. All such items shall hereinafter be referred to as “garbage.” Ord. No. 436, Sec. 2.

#### **10.08.04 Garbage Collection**

City to provide garbage and waste disposal dump. The mayor and city council shall provide a suitable place where all garbage and waste may be hauled and disposed of. Ord. No. 436, Sec. 3.

#### **10.08.05 Garbage Cans**

All proprietors of hotels, restaurants, cafes, boarding or eating houses, housekeepers, each family unit and occupants of buildings in the city, shall provide the necessary cans or other receptacles as herein provided. Kitchen garbage shall be kept in galvanized iron cans, with tin or metal covering fitting tightly over said can, such cans to have a capacity of ten, fifteen, twenty,

thirty, or fifty-five gallons and be provided with two handles. Provided that yard and stable manure, ashes, cinder, etc., shall be kept in any box or vessel that can be handled by one man; yard and stable manure shall be kept in any covered box or bin so arranged that flies cannot reach the manure storage therein. Provided, further, that old paper, and rags may be placed in burlap bags or in boxes in such a manner that contents cannot blow away or be scattered. Ord. No. 436, Sec. 4.

#### **10.08.06 Apartments**

The owner of any apartment house shall provide the necessary cans or other receptacles at his own expense for each apartment or housing unit contained in his apartment house, and shall be responsible for his tenants depositing daily their accumulation of garbage in such receptacles as herein provided. Ord. No. 436, Sec. 5.

#### **10.08.07 Receptacles**

It shall be unlawful for any person other than the garbage collector, person owing the can, or other receptacles, or the servant or employee of such person to deposit any garbage, article or substance in the receptacles, or to remove, injure or destroy, uncover, or in any manner disturb such receptacles or any portion of its contents, except as herein provided. Ord. No. 436, Sec. 6.

#### **10.08.08 Garbage Littering**

No person shall place, burn or throw waste paper, or other garbage on any street, sidewalk, alley or public place within the city, at any time, day or night. Provided, further, that the exact location of all receptacles may be under the direction and control of the garbage collector or his assistants. Trash and clippings shall be placed along curb for pick up. Ord. No. 436, Sec. 7.

#### **10.08.09 Receptacle Placement**

Where garbage consists of paper, excelsior, straw or other packing material the occupant of the premises shall provide a box, barrel, or other receptacle so that the contents may not be blown about or scattered. Size of the receptacle needed to care for such garbage shall be determined by the garbage department. These receptacles may be placed at the rear of the premises, but must not be placed so as to interfere with traffic up and down any alley, and must be easy of access to the garbage collector. Ord. No. 436, Sec. 8.

#### **10.08.10 Materials not Picked up**

The terms and provisions of this chapter shall not obligate the city, to pick up or remove refuse or debris which results from construction or repair work, wood or limbs cut or removed from trees. Ord. No. 436, Sec. 9.

#### **10.08.11 Garbage Pick up**

Garbage shall be collected from private residences by the city at least twice a week and it is hereby made the duty of the occupants of every dwelling in the city to have garbage on their respective premises properly placed in approved cans and available for regular garbage collection. Garbage, trash and rubbish shall be collected from business and commercial houses as required with the exception of Sundays and Holidays. Ord. No. 436, Sec. 10.

#### **10.08.12 Garbage Rates**

1. The fees to be charged and paid for the collection and disposal of garbage shall be on a monthly basis, payable in advance, as follows:
  - A. Each Single family residence, flat, apartment or house-keeping unit, per month for each housekeeping unit - \$12.50.
  - B. Office buildings shall pay for each separate suite of rooms, or room in said office building – 37.00
  - C. Each building, house, or part of building occupied by a commercial business shall pay a rate of \$4.00 per yard per dump of their dumpster (i.e. charge for dumping an 8-yard dumpster would be \$32.00). The number of dumps per week will be at the request of the business. Any additional dumps will be done if equipment and staff is available at the above charge.
2. One or more classifications may be combined to achieve an equitable result. Ord. No. 2011-894.
3. Commercial business shall include the following kinds of business: Hotels, grocery and/or meat markets, cafes or restaurants, department stores, jewelry stores, auto supply stores, wholesale grocery stores, cleaning and pressing shops, laundries, motion picture theaters and other kinds of theaters, lumber yards, plumbing shops, electric shops, bottling plants, slaughterhouses, service and filling stations, garages, shoe repair shops, barbershops, beauty parlors, printing shops, stationery shops, newspaper, machine shops, stock sales barns, wholesale gas, oil and refining companies, boardinghouses, bakery shops, undertaking parlors, paint stores, drug stores, soda fountains, marble and monument establishments, dairy products companies, and industrial plants and other kinds of businesses, unless otherwise specified. Ord. No. 1995-705.

#### **10.08.13 Responsibility for Payment**

- A. The fees chargeable against dwelling houses and other establishments are levied on and collectible from the person in whose name the dwelling or establishment is rented or from the owner or occupant. A separate fee is hereby fixed for and shall be collected from and paid by each unit of a multiple family dwelling house occupied as a residence, or an apartment house.
- B. For purpose of this chapter, an "apartment house" is defined as being any dwelling that is occupied by two or more family groups.
- C. All owners of apartment houses as defined in subsection (b) are required to notify the city garbage department of the address of the apartment houses owned by

them, the number of units in each apartment house, the number of rooms per unit, and the name and address of the owner. Ord. No. 436, Sec. 12.

#### **10.08.14 Collector designated; billing; funds**

The Osceola Municipal Light and Power Department is hereby designated the official collector of garbage fees. The fees herein levied and fixed are on a monthly basis and shall be due and payable in advance. The amount of the garbage fee shall be listed on a statement furnished by the collector and mailed to each person owing garbage fees. The fee shall be fixed according to this chapter with proper amounts to be charged each person receiving a garbage disposal service and a record of same shall be kept by the collector. The monthly period for each person receiving such service and owing such fee, shall coincide with the Osceola Municipal Light and Power utility bills. Ord. No. 436, Sec. 13.

#### **10.08.15 Reservation of power in City Council**

The city council shall have the power to reduce or increase the fees herein listed for said service by resolution adopted at any regular meeting of the council, and in the same manner add new businesses; or businesses not listed, as well as names of persons occupying residences, apartments, duplexes or other living quarters, to the schedule and set fees therefor. Ord. No. 436, Sec. 14.

#### **10.08.16 Bagging Various Items**

All persons, firms and corporations are required by this Ordinance to bag in the usual and customary bags, all clippings, leaves, twigs, and all other discarded items suitable for or capable of being made suitable for bagging. All citizens are required to cooperate in reducing the labor required by the Osceola Sanitation Department in collecting garbage and refuse.

- A. All persons, firms and corporations engaged in tree cutting within the city shall, at their own expense, promptly remove from the City of Osceola cut material.
- B. All persons, firms and corporations engaged in roofing within the city shall, at their own expense, promptly remove from the City of Osceola all such roofing material removed as waste, - including lumber scraps.
- C. All persons, firms and corporations must dispose of all discarded water heaters, washers, dryers, stoves, appliances and other bulk items outside the City of Osceola, at their own expense. Ord. No. 1981-554.
- D. All persons, firms and corporations violating this Ordinance shall be subject to a fine of not less than \$5.00 nor more than \$25.00 for each offense. Ord. No. 1981-554.

#### **10.08.17 Time and Placement of Garbage**

1. It shall be unlawful for any individual residing east of Elm Street in Osceola, Arkansas, to place his or her garbage or waste on the street for collection prior to Monday mornings and Thursday mornings, and after 9:00 o'clock A.M. on those mornings, those days being the days for collection of garbage by the City

- Sanitation Department for said residences.
2. It shall be unlawful for any individual residing west of Elm Street in Osceola, Arkansas, to place his or her garbage or waste on the street for collection prior to Tuesday mornings and Friday mornings, and after 9:00 o'clock A.M. on those mornings, those days being the days for collection of garbage by the City Sanitation Department for said residences.
  3. All garbage or waste to be picked up by the City Sanitation Department must be placed in plastic bags, and may not be placed in any other type of container.
  4. Any person convicted of a first offense for a violation of any of the above sections, shall be fined the sum of Ten Dollars (\$10.00), plus costs of Court. The second conviction for the violation of any of the above-sections, shall be fined the sum of Twenty-Five Dollars (\$25.00) plus costs of Court. A third of subsequent conviction for the violation of any of the above sections, shall result in a fine of Fifty Dollars (\$50.00), plus costs of Court. Ord. No. 1988-619.

#### **10.08.18 City Dumpsters**

1. That it is hereby prohibited for any person to place construction materials or debris in any trash dumpster owned by the City.
2. That it is prohibited for any person who is not a resident of the City to place any trash or any other matter in such dumpsters.
3. That any person convicted of violating this ordinance shall be fined up to \$100.00 for each separate violation. Ord. No. 1997-730.

#### **10.08.19 Commercial Dumpsters**

1. **Illegal Dumping Prohibited.** It shall be unlawful for any person to illegally dump and deposit garbage or other items in any commercial business dumpster unless the person has written permission from the commercial business owner or owners who pay the dumping fees on the commercial business dumpster.
2. **Penalty.** Any person found guilty of violating this ordinance by a court of competent jurisdiction shall be assessed a fine in an amount not to exceed \$100.00 or double that amount for each repetition of such violation. Court costs shall also be assessed against any person found guilty of violating this ordinance. Ord. No. 2007-843

## Chapter 10.12

### Backflow Regulations

#### Sections:

- 10.12.01 Purpose
- 10.12.02 Application
- 10.12.03 Policy
- 10.12.04 Cross Connections
- 10.12.05 Consumer's Responsibility
- 10.12.06 Protections Required
- 10.12.07 Backflow Prevention Installation
- 10.12.08 Backflow Device Manufacturing and Approval
- 10.12.09 Backflow Device Assemblies
- 10.12.10 Inspection, Maintenance, and Testing
- 11.12.11 Discontinuing Service

#### **10.12.01 Purpose**

The purpose of this Ordinance is:

1. To protect the public potable water supply from contamination or pollution by containing within the consumer's internal distribution system at the nearest possible point, contaminants or pollutants which could backflow through the service connection into the public potable water supply system.
2. To promote the elimination, containment, isolation, or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water system, plumbing fixtures, and industrial-processing systems.
3. To establish a program that will insure continued maintenance of cross-connection control devices and assemblies which will systemically and effectively prevent the contamination or pollution of potable water within the public water system of the City of Osceola. Ord. No. 1993-687.

#### **10.12.02 Application**

Application. This Ordinance shall apply to all premises served by the public potable water system of the City of Osceola. Ord. No. 1993-687.

#### **10.12.03 Policy**

1. Policy. This Ordinance will be reasonable interpreted by the water purveyor (City of Osceola), with the intent of recognizing the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of protection shall be commensurate with the degree of hazard.
2. The Osceola Water Department shall be primarily responsible interpreted by the



water purveyor (City of Osceola), with the intent of recognizing the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard. The Osceola Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow of contaminants or pollutants through the water service connection the cooperation of all consumers is required to implement and maintain the program to control cross connections. The City of Osceola and the consumer are jointly responsible for preventing contamination of the water system.

3. If in the judgment of the Osceola Water Department or an authorized representative of the water department, cross connection protection is required through either piping modification of installation or an approved backflow prevention device or assembly, due notice shall be given to the consumer. The consumer shall immediately comply by providing the required protection at his own expense; and failure, refusal, or inability on the part of the consumer to provide such protection shall constitute grounds for discontinuing water service to the premises until such protection has been provided. Ord. No. 1993-687.

#### **10.12.04 Cross Connections**

1. No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public potable or consumer's water system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the water purveyor, and as required by the laws and regulations of the Arkansas Department of health.
2. No auxiliary water supply shall in any way be connected to the public potable water system or to a consumer's water system unless written approval is first obtained from the City of Osceola and the Arkansas Department of Health. Furthermore when written approval is obtained the connection shall be done as specified by the Arkansas Department of Health.
3. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices considered by the water purveyor as necessary for the protection of health and safety. Ord. No. 1993-687.

#### **10.12.05 Consumer's Responsibility**

1. The consumer's premises shall be open at all reasonable times to the water purveyor, or his authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the public water system.
2. On request by the water purveyor or his authorized representative, the consumer shall furnish information on water use practices within his premises.
3. It shall be the responsibility of the water consumer to conduct periodic surveys of

water use practices on his premises to determine whether there are actual or potential cross connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. Ord. No. 1993-687.

#### **10.12.06 Protections Required**

The type of protection required by this Ordinance shall depend on the degree of hazard which exists, and the type shall be as specified in;

1. The Arkansas State Plumbing Code
2. Policies and procedures for Backflow Prevention Devices, Location and Installation as published by the Arkansas Department of Health Division of Plumbing and Natural Gas.
3. Rules and Regulations Pertaining to Public Water Systems as published by the Arkansas Department of Health. Ord. No. 1993-687.

#### **10.12.07 Backflow Prevention Installation**

An approved backflow prevention device shall be installed in a consumer's water system where, in the judgment of the water purveyor or the Arkansas Department of Health, actual or potential hazards to public potable water exists. The type and degree of protection required shall be commensurate with the degree of hazard.

An approved air gap or a reduced pressure zone backflow prevention device (RDZ) shall be installed at the service connection to any premises where, in the judgment of the water purveyor or the Arkansas Department of Health, the nature and extent of activities on the premises, or the materials used in connection with activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situation.

1. Premises having auxiliary water supply.
2. Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.
3. Premises where entry is restricted so that inspection for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross connection do not exist.
4. Premises having a repeated history of cross connections being established or re-established.
5. Premises, which due to the nature of the enterprise therein, are subject to recurring modifications or expansion.
6. Premises on which any substance is handled under pressure so as to permit entry into the public water supply or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
7. Premises where materials of a toxic or hazardous nature are handled such that if back-pressure should occur, a serious health hazard may result. Ord. No. 1993-687.

### **10.12.08 Backflow Device Manufacturing and Approval**

1. Backflow devices and assemblies shall be by a manufacturer approved by the Arkansas Department of Health and shall be an approved model of that manufacturer.
2. Existing backflow prevention devices, approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this Ordinance so long as the water purveyor is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or required more than minimum maintenance, or when the water purveyor finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this Ordinance. Ord. No. 1993-687.

### **10.12.09 Backflow Device Assemblies**

1. Backflow prevention devices assemblies required by this Ordinance shall be purchased and installed at the expense of the water consumer.
2. Backflow prevention devices and assemblies installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.
3. Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flood by any liquid. Ord. No. 1993-687.

### **10.12.10 Inspection, Maintenance, and Testing**

Inspection, maintenance and testing shall be in accordance with Section 10.6.1 through 10.6.17 of Chapter 10 of the Arkansas Plumbing Code.

Inspection, maintenance and testing shall be done by a Certified technician at the expense of the consumer, at the frequency required in Chapter 10 of the Arkansas Plumbing Code.

Documentation of inspections, maintenance and testing shall be retained by the consumer and furnished to the water purveyor (City of Osceola) at least once annually. Ord. No. 1993-687.

### **11.12.11 Discontinuing Service**

The water purveyor shall deny or discontinue, after reasonable notice to the consumer and/or occupant thereof, the water service to any premises wherein any backflow prevention device required by this Ordinance is not installed, tested, or maintained in a manner acceptable to the water purveyor (City of Osceola), or if it is found that a backflow device or assembly has been removed or bypassed, or if an unprotected cross connection exist on the premises.

Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this Ordinance to the satisfaction of the water purveyor and the Arkansas Department of Health. Ord. No. 1993-687.

## Chapter 10.16

### Wellhead Protection

#### Sections:

- 10.16.01 Purpose
- 10.16.02 Definitions
- 10.16.03 Establishment of wellhead protection zone
- 10.16.04 Permitted uses
- 10.16.05 Prohibited uses
- 10.16.06 Administration
- 10.16.07 Pollutant Regulations

#### **10.16.01 Purpose**

- A. This ordinance shall be known as the "Wellhead Protection Ordinance."
- B. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the City of Osceola by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones. Ord. No. 2002-782.

#### **10.16.02 Definitions**

When used in this Ordinance the following words and phrases shall have the meaning given in this section:

- A. Hazardous waste or materials - any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:
  - 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - 2. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- B. Sanitary landfill - A disposal site where solid including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- C. Wellhead - the upper terminal of a well, including adapters, ports, seals, valves and other attachments.
- D. Regulatory agency - any governmental agency with jurisdiction over hazardous waste as defined herein. Ord. No. 2002-782.

#### **10.16.03 Establishment of wellhead protection zone**

There is hereby established a use district to be known as a wellhead protection zone,

identified and described as all the area within a circle the center of which is the center of any city water supply wellhead and the radius determined by delineation. Ord. No. 2002-782.

#### **10.16.04 Permitted uses**

The following uses shall be permitted within wellhead protection zones:

- A. Any use permitted within existing agricultural, single family residential, multifamily residential, and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies.
- B. Any other open land use where any building located on the property is incidental and accessory to the primary open land use. Ord. No. 2002-782.

#### **10.16.05 Prohibited uses**

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, where or not such use or condition may otherwise be ordinarily included as part of a use permitted under Section 4 of this ordinance unless such uses are approved or permitted by State and Federal Regulatory Agencies.

- a. Surface use or storage of hazardous material, including commercial use of agricultural pesticides;
- b. Septic tanks or drain fields appurtenant thereto;
- c. Impervious surfaces other than roofs of buildings; and streets parking lots, driveways and walks serving buildings permitted under Section 4 of this Ordinance;
- d. Sanitary landfills;
- e. Hazardous waste disposal sites;
- f. Storm infiltration basins;
- g. Underground storage tanks;
- h. Sanitary sewer lines within 100 feet of a wellhead. Ord. No. 2002-782.

#### **10.16.06 Administration**

The policies and procedures for administration of any wellhead protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the City of Osceola, as the same is presently enacted or may from time to time be amended. Ord. No. 2002-782.

#### **10.16.07 Pollutant Regulations**

- 1. This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Osceola and enables Osceola to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The Objectives of the Ordinance are:
  - A. To prevent the introduction of Pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Public Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly Owned Treatment Works;
  - C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
  - D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
  - E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works;
  - F. To enable the City of Osceola to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.
  - G. To encourage pollution prevention activities. Ord. No. 2004-800.
2. This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of cost resulting from the program established herein. Ord. No. 2004-800.

## Chapter 10.20

### Miscellaneous

#### Sections:

- 10.20.01 Light and Power Rates
- 10.20.02 Utility Connection Deposit

#### **10.20.01 Light and Power Rates**

- A. That an appropriate ordinance be amended to include the rate schedules as per the attached and made part of this ordinance as though set out herein word for word. Ord. No. 2013-901.
- B. That the rates and services set forth in said attachment shall supersede all other rates and schedules now in effect and in conflict therewith. Ord. No. 2013-901.
- C. That appropriate ordinances be amended to include the Residential Rate Schedule within Ordinance 2013-901 and made part of this ordinance as though set out herein word for word as of dates of billing prior to enactment of Ordinance 2013-901 where actual billings varied from Ordinance 2007-839. Said rate schedule' is also attached hereto as Exhibit A. Ord. No. 2013-902.
- D. That the rates and services set forth in said attachment where utilized for actual billings shall supersede all other Residential Rate Schedules then in effect and in conflict therewith for periods after enactment of Ordinance 2007-839, including but not limited to billing cycles beginning August 2009 through January 2010 (and any other billing cycle prior to enactment of Ordinance 2013-901 and). Ord. No. 2013-902.

#### **10.20.02 Utility Connection Deposit**

- A. A utility connection deposit shall be paid for each application for a residential electric utility connection based upon the estimated monthly usage, taking into consideration the size of the premises upon which the utilities will be used, the number of occupants, equipment and other considerations concerning the premises for which the application is made, but in no event less than \$50.00. When in the judgment of the management of the utilities department it appears that the deposit established for such residence is inadequate or insufficient to insure prompt and satisfactory payment of the utility bills, taking all of the foregoing items into consideration as well as the experience of the utility customer with the utilities department, the required deposit may be increased. The utility department may also, based upon experience, reduce or waive the deposit entirely.
- B. There shall be a transfer fee of \$10.00 required in advance for transferring meter service from one residence to another residence. Ord. No. 1981-544.

# TITLE 11

## BUILDINGS AND CONSTRUCTION

### Chapters:

- 11.04 Building Requirements
- 11.08 Standard Codes

### Chapter 11.04

#### Building Regulations

#### Sections:

- 11.04.01 Moving Structures
- 11.04.02 Establishment of the Office of housing Enforcing Official
- 11.04.03 Establishment of a Housing Board of Appeals
- 11.04.04 Enforcement
- 11.04.05 Right of Entry
- 11.04.06 Establishment of Office of Building Official
- 11.04.07 Duties of building official
- 11.04.08 Right of Entry
- 11.04.09 Definitions
- 11.04.10 Fire Limits Established

#### 11.04.01 Moving Structures

1. That any person, partnership, corporation, or other association, be said person, partnership, corporation or other association a resident or residents or non-residents of the City of Osceola, Arkansas, desiring to move or having moved a house, structure or parts thereof, of whatever nature or kind, to empty lots or other real estate in the City Limits of said City of Osceola, Arkansas, must obtain, before undertaking an operation of such nature, the permission of the City Council of the City of Osceola, Arkansas.
2. Any person, partnership, corporation or other association moving or having moved such houses or structures as heretofore defined as Section 1, of this Ordinance without said permission of said Council, is in violation of this Ordinance, and such an act constitutes a misdemeanor. Each day that said moving operation occurs in the City limits of Osceola, Arkansas, without said permission of said Council, constitutes a separate offense.
3. Any person, partnership, corporation or other association violating any provisions of this ordinance shall be subject to a fine of not less than Fifty Dollars (\$50.00)



nor more than Five Hundred Dollars (\$500.00). Ord. No. 325.

#### **11.04.02 Establishment of the Office of housing Enforcing Official**

- A. The office of Rousing Enforcing Official is hereby created.
- B. The Building Official shall be appointed by the mayor subject to confirmation of the City Council. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges. Ord. No. 325.

#### **11.04.03 Establishment of a Housing Board of Appeals**

- A. There is hereby created a Board of Housing Appeals which shall consist of five (5) members appointed by the Mayor subject to confirmation of the City Council. One member shall be appointed to serve one (1) year, two members to serve two (2) years and two members to serve three (3) years.
- B. This Board shall act by majority vote of the members present.
- C. Said Board shall have the power and be required to hold public hearings in deciding appeals where it is alleged there is an error in law or fact in any order or decision of the Housing Enforcing Official in the enforcement of this ordinance. Ord. No. 325.

#### **11.04.04 Enforcement**

It shall be the duty of the Housing Enforcing Official to enforce all laws and provisions specified in the Minimum Housing Code. Ord. No. 325.

#### **11.04.05 Right of Entry**

The Housing Enforcing Official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour. Ord. No. 325.

#### **11.04.06 Establishment of Office of Building Official**

The office of building official is hereby created and the executive official in charge shall be known as the building official.

The building official shall be appointed by the Mayor and subject to confirmation of the City Council. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.

During temporary absence or disability of the building official the appointing authority shall designate an acting building official. Ord. No. 354.

#### **11.04.07 Duties of building official**

It shall be the duty of the building official to enforce all laws relating to the construction, alteration, removal, and demolition of buildings and structures. Ord. No. 354.

#### **11.04.08 Right of Entry**

The building official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building structure or premises at any reasonable hour. Ord. No. 354.

#### **11.04.09 Definitions**

Wherever the word “municipality” is used in the building code it shall be held to mean the City of Osceola, Arkansas.

Wherever the term “Corporation Counsel” is used in the building code it shall be held to mean the Attorney for the City of Osceola, Arkansas. Ord. No. 354.

#### **11.04.10 Fire Limits Established**

The Fire limits of the City of Osceola, Arkansas, are hereby established as follows:

Beginning at the Southeast corner of Block No. 26 in the Osceola Townsite Company ' s Addition to Osceola, Arkansas , running thence West along the North side of Bard Avenue to the Southwest corner of Lot No. 4 in Block No. 24; thence North to the South boundary line of Block No. 19; thence West along the North side of Ford Avenue to the Southwest corner of Lot No. 13 in Block No. 21; thence North to the northwest corner of Lot No. 2 in said Block; thence East to the Northwest corner of Block No. 20; thence North along the East side of Maple Street to the Northwest corner of Block No. 10; thence East along the South side of Johnson Avenue to a point 60 ft East of the Northeast corner of Block No. 10; thence North to the Northwest corner of Lot No. 14 in Block No. 7; thence East to the Western boundary of the right-of -way of the St. Louis-San Francisco Railroad Company; thence South to the South side of Johnson Avenue; thence East to the Northeast corner of Block No. 12; thence East along the North side of said alley, running through Block No. 12; thence East along the North side of said alley to Ash Street; thence South along the West side of Ash Street to the Southeast corner of Block No. 16; thence East to the West side of Pecan street; thence South to the point of beginning, all of said lots, blocks and territory being in the Osceola Townsite Company' s addition to Osceola, Arkansas. Ord. No. 354.

## **Chapter 11.08**

### **Standard Regulations**

Sections:

|          |                               |
|----------|-------------------------------|
| 11.08.01 | Arkansas Mechanical Code      |
| 11.08.02 | National Electrical Code      |
| 11.08.03 | Arkansas Energy Code          |
| 11.08.04 | Arkansas Gas Code             |
| 11.08.05 | Arkansas State Plumbing Code  |
| 11.08.06 | Arkansas Fire Prevention Code |
| 11.08.07 | Property Maintenance Code     |
| 11.08.08 | Amendments                    |
| 11.08.09 | Fair Housing Code             |

#### **11.08.01 Arkansas Mechanical Code**

There is hereby adopted by the City of Osceola, that certain 2010 Arkansas Mechanical Code, of which not less than three copies have been and are now filed in the office of the Clerk of the City of Osceola, and the same hereby adopted and incorporated as fully as if set out length herein and from the date on which this Ordinance shall take effect the provisions thereof shall be controlling within the limits of the City of Osceola. Ord. No. 2013-898.

#### **11.08.02 National Electrical Code**

There is hereby adopted by the City of Osceola, that certain 2002 National Electrical Code, of which not less than three copies have been and are now filed in the office of the Clerk of the City of Osceola, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Osceola. Ord. No. 2005-806.

#### **11.08.03 Arkansas Energy Code**

There is hereby adopted by the City of Osceola, Arkansas, that certain 2004 Arkansas Energy Code, of which not less than three copies have been and are now filed in the Incorporated as fully as if .set out at length herein, · and from the date on which the Ordinance shall take effect, the provisions thereof shall be controlling within the limits if the City of Osceola. Ord. No. 2008-858.

#### **11.08.04 Arkansas Gas Code**

There is hereby adopted by the City of Osceola, that certain 1995 Arkansas Gas Code, of which not less than three copies have been and are now filed in the office of the Clerk of the City of Osceola, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Osceola. Ord. No. 2005-808.

### **11.08.05 Arkansas State Plumbing Code**

There is hereby adopted by the City of Osceola, Arkansas, that certain 2006 Arkansas Plumbing Code, of which not less than three copies have been and are now filed in the incorporated as fully as If set out at length herein, and from the date on which the Ordinance shall take effect, the provisions thereof shall be controlling within the limits if the City of Osceola. Ord. No. 2008-860.

### **11.08.06 Arkansas Fire Prevention Code**

There is hereby adopted by the City of Osceola, Arkansas, that certain 2007 Arkansas Fire Prevention Codes, Vol. I, II, and III, of which not less than three copies have been and are now filed in the incorporated as fully as if set out at length herein, and from the date on which the Ordinance shall take effect, the provisions thereof. shall be controlling within the limits if the City of Osceola. Ord. No. 2008-861.

### **11.08.07 Property Maintenance Code**

1. That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Osceola, Arkansas, being marked and designated as the International Property Maintenance Code, 2003 edition, as published by the International Code Council, be and is hereby adopted as the property Maintenance Code of the City of Osceola, Arkansas, in the State of Arkansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Osceola, Arkansas are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

2. The following sections are hereby revised:
  - A. Section 101.01. Insert: City of Osceola, Arkansas, as Name of Jurisdiction.
  - B. Section 103.5. Insert: City of Osceola, Arkansas, Fee Schedule.
  - C. Section 106.4. Insert: In addition to the lien provisions as provided herein, any owner, owners or occupant of any lot or other real property within the City of Osceola, Arkansas, after having been given seven (7) days notice by the City Code Enforcement Officer, who shall fail, refuse or neglect to correct or rectify said condition, shall be guilty of a violation of this Ordinance, and upon conviction therefore, shall be punishable by a fine of not less than Twenty-Five (\$25.00) Dollars and not more than One Hundred (\$1 00.00) Dollars; and each day such violation occurs or shall

- continue, shall be considered a separate offense.
- D. Section 302.4. Insert: 6 inches.
- E. Section 304. 14. Insert: March 1 to October 31.
- F. Section 602.3. Insert: October 1 to March 31.
- G. Section 602.4 Insert: October 1 to March 31.

3. That this Ordinance supplements Ordinance Numbers 1991-650 and 2004-797 of the City of Osceola, Arkansas, entitled An Ordinance Prohibiting the Maintenance or Allowance of Dilapidated Buildings or Structures Upon Private Property and Requiring Premises to be Kept Free From Dilapidated Buildings or Structures; Prescribing a Procedure to be Followed in such cases; Declaring an Emergency, and For Other Purposes, and An Ordinance To Amend Ordinance No. 1991-650; Declaring an Emergency; and For Other Purposes. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

4. That the City of Osceola, Arkansas, shall have the option of enforcing this Ordinance by any one or more of the methods as provided for herein, and the use of one remedy as prescribed herein by said City shall in no way prevent or prohibit the City of Osceola, Arkansas, from proceeding under different or other remedies as herein provided. ·Ord. No. 2006-834.

### **11.08.08 Amendments**

#### **SECTION 1. APPENDIX L**

#### **ALTERNATIVE SEISMIC DESIGN REQUIREMENTS FOR CATEGORY I AND II BUILDINGS**

##### **SECTION L101**

L101.1 Scope. This Appendix provides an alternative to seismic design requirements found in Chapter 16 regarding buildings and other structures classified as Category I and II occupancies meeting the criteria outlined in Sections L102. The provisions in this Appendix shall not apply unless specifically adopted by local ordinance.

##### **SECTION L102**

L102.1 Criteria. Projects electing to use this alternative must be buildings or other structures classified as Category I or II occupancies as described in the Table 1604.5, Arkansas Fire Prevention Code, Volume II, 2007 Edition, or in ASCE 7-0S, Table 1-1, and must be constructed for manufacturing or industrial occupancy or for public works.

##### **SECTION L103**

###### **L1003.1 Structural Design Requirements.**

In the case of eligible projects, the mapped 0.2-second and 1.0-second spectral response accelerations shown in IBC 2006 Figures 1613.5(1), 1613.5(2), 1613.5(7), and 1613.5(8) [ASCE 7-05 Figures 22-1, 22"2, 22-7, and 22-8], which reference a 2% probability of exceeding the design seismic event in a 50-year period may be substituted with mapped 0.2-second and 1.0-second spectral response accelerations documented in the "1997 NEHRP Recommended Provisions for Seismic Regulations for New Buildings", which reference a 10% probability of exceeding the design seismic event in a 50-year period.

### **L103.2 Designed Spectral Acceleration Parameters**

If Alternate mapped spectral response accelerations as noted in Section L103.1 are used, the following equations shall be substituted for equations 16-39 and 16-40 in IBC 2006 [equations 11.4-3 and 11.4-4 in ASCE 7-05].

$$\begin{array}{lll} \text{SDS} = \frac{2}{3} \text{SMS} & \text{(Equation 16-39, IBC 2006)} & \text{[(11.4-3), ASCE 7-05]} \\ \text{SD1} = \frac{2}{3} \text{SM1} & \text{(Equation 16-40, IBC 2006)} & \text{[(11.4-4), ASCE 7-05]} \end{array}$$

### **L103.3 Seismic Base Shear.**

If Alternate mapped Spectral response accelerations as noted in Section L103.1 are used, the design seismic base shear,  $V$ , in any given direction, shall not be less than that determined in accordance with the requirements of Section 1607 of the Standard Building Code. Ord. No. 2010-870.

### **11.08.09 Fair Housing Code**

That the Fair Housing Code, City of Osceola, Arkansas, prepared by the Osceola Community Development Agency, consisting of eighteen (18) pages is hereby adopted. Three (3) copies of the Fair Housing Code are on file in the office of the City Clerk and are available for public inspection. Ord. No. 1980-533.

## **TITLE 12**

### **PARKS AND RECREATION**

#### **Chapters:**

12.04 Park Regulations

#### **Chapter 12.04**

#### **Park Regulations**

#### **Sections:**

|          |                       |
|----------|-----------------------|
| 12.04.01 | Definitions           |
| 12.04.02 | Tobacco Prohibition   |
| 12.04.03 | Violations; penalties |

#### **12.04.01 Definitions**

1. Tobacco product. For purposes of this Ordinance "tobacco product" means a cigarette, snuff, chewing tobacco, dip, or other preparations of pulverized tobacco, smoking tobacco, or tobacco of any kind suitable for chewing or smoking or any article made of tobacco or tobacco substitute.
2. Smoking. For purposes of this Ordinance "smoking" means inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, plant, or other combustible substance in any manner or in any form.
3. Recreational facility. For purposes of this Ordinance "recreational facility" means a building, office or structure, enclosed or open, which is accessible by the public, owned, leased or operated by the City of Osceola; and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities, including, without limitation, park pavilions, amphitheaters, covered stage areas, tennis courts, walking/bike trails, athletic fields, baseball fields, softball fields, dugouts, and various other similar park or recreation facilities.
4. City park. For purposes of this Ordinance, "city park" means any real property owned, leased or operated by the City of Osceola, which by reason of location, natural features, scenic beauty, or historical interest, possesses distinctive physical, aesthetic, intellectual, creative or social values and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities. Ord. No. 2010-879.

#### **12.04.02 Tobacco Prohibition**

1. Smoking and use of tobacco products shall be prohibited in any and all present and future city Parks and recreational facilities and shall be prohibited at all times, with the exception of the Osceola Municipal Golf Course.
2. Disposal shall be prohibited at all times of any cigarette, cigar or tobacco product, or any part of a cigarette, cigar, or tobacco product in any city park or recreational facility, with the exception of the Osceola Municipal Golf Course. Ord. No. 2010-879.

#### **12.04.03 Violations; penalties**

1. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and subject to the following penalties:
  - a. A fine of twenty-five dollars (\$25) plus court costs for the first offense.
  - b. A fine of fifty dollars (\$50) plus court costs for the second offense.
  - c. A fine of one hundred dollars (\$100) plus court costs for the third and subsequent offense.
  - d. Additionally, any person may be permanently banned from the city parks and recreational facilities after three (3) violations.
2. Any person who smokes or uses tobacco products in an area where smoking or use of tobacco products is prohibited and who refuses to cease smoking or the use of such products when asked may be required to leave the premises, and shall be subject to prosecution for criminal trespass if he/she does not leave when asked. Ord. No. 2010-879.



## **TITLE 13**

### **PLANNING**

#### **Chapters:**

13.04 Planning Commission

#### **Chapter 13.04**

#### **Planning Commission**

##### **13.04.01 Planning Commission Members**

The City of Osceola Planning Commission shall consist of eleven members who shall serve without compensation and of whom not more than one-third may hold any municipal office. Ord. No. 2015-3.

##### **13.04.02 Duties**

The City Planning Commission shall have all the duties and functions as pertaining to planning commissions as conferred upon the city for planning as provided by Act 186 of the Acts of Arkansas 1957 as amended. Ord. No. 348.

##### **13.04.03 Appointed**

The members of the City Planning Commission shall be named and appointed by the Mayor and his appointments will be valid and effective upon confirmation by the City Council. Ord. No. 348.

##### **13.04.04 Term**

The terms of the members of the City Planning Commission shall be for four years. The Mayor shall designate the terms of the initial appointments. Thereafter as vacancies occur in said Commission, for whatever cause, said vacancies shall be filled in the manner provided and said appointees shall hold office until expiration of the term which they were appointed to fill. All members of the Commission whose terms may expire shall serve until their successors in office have been appointed and confirmed. Ord. No. 348.

##### **13.04.05 Board of Appeals**

That the City of Osceola Planning Commission is hereby designated as the Board of Appeals as authorized by Act 629 of the General Assembly of the State of Arkansas. The City of Osceola Planning Commission shall have all the duties and functions authorized by Act 629 of the General Assembly of Arkansas, 1969. Ord. No. 1978-514.

## **TITLE 14**

### **ZONING**

#### **Chapters:**

- 14.04 Zoning Ordinance Adopted by Reference
- 14.08 Flood Damage Prevention Code
- 14.12 Annexing and Rezoning Property
- 14.16 Osceola Municipal Airport Zoning Ordinance
- 14.20 Wireless Communication Facility Zoning Overlay Districts

#### **Chapter 14.04**

##### **Zoning Ordinance Adopted by Reference**

#### **Sections:**

- 14.04.01 Zoning Ordinance Adopted
- 14.04.02 Zoning Map Adopted
- 14.04.03 Zoning Amendments

#### **14.04.01 Zoning Ordinance Adopted**

1. Zoning Regulations. That the Zoning Regulations for the City of Osceola, Arkansas, prepared by the Osceola Planning Commission and adopted by it on January 4, 2000, after public hearing held January 4, 2000, are hereby adopted. Three copies of the zoning regulations above referred to are on file in the office of the City Clerk and are available for public inspection.
2. Penalties. Any person, firm, or corporation found guilty of violating any of the provisions of this Ordinance shall be fined for each such violation as provided by law. Ord. No. 2000-753.

#### **14.04.02 Zoning Map Adopted**

That the amendments to "Osceola Zoning District Map", as prepared by the Osceola Planning Commission and assisted by the Planning Division of the East Arkansas Planning and Development District, and as approved by resolution of the Osceola Planning Commission on April 4, 2000 and signed by the Chairman and Secretary is hereby adopted and said map is made a part of this ordinance. A copy of the Zoning District Map is on file in the office of the City Clerk, 316 West Hale Avenue, and is available for public inspection during office hours. Ord. No. 2000-755.

#### **14.04.02 Zoning Amendments**

**Ord. No. 2002-781**

1. Amendment Zoning Regulations. That the Industrial District (I) and Industrial Heavy District (1-H) zoning regulations for the City of Osceola, Arkansas, prepared by the Osceola Planning Commission and adopted by it on the 7th day of May, 2002, after public hearing held on the 7th day of May, 2002, are hereby adopted, and all zoning regulations in conflict therewith, are hereby repealed. Three copies of the zoning regulations above referred to are on file in the office of the City Clerk and are available for public inspection.
2. Penalties. Any person, firm, or corporation found guilty of violating any of the provisions of this Ordinance shall be fined for each such violation as provided by law.

**Ord. No. 2004-802**

1. ARTICLE III - ADMINISTRATION AND ENFORCEMENT
  - A. Section 3.05.02. Amendment to the Official Zoning Districts Map C.3. b. The applicant shall notify all property owners within a 200 foot radius of the property(ies) boundaries. Such notice shall include, but not be limited to, information about the proposed permitted use of the property(ies) for which the change in classification is being requested, as well as the date, time, and location of the public hearing at which the request will be heard. The applicant shall be responsible for the cost of such notifications, which shall be sent by Certified Mail, Return Receipt Requested.
  - B. Section 3.05.02. Amendment to the Official Zoning Districts Map C.4. The Commission shall conduct a public hearing, during which opponents and proponents of the proposed reclassification may speak prior to the opening the public hearing, the Commission shall be provided with evidence that all procedural requirements, including notification of affected property owners, have been satisfied. Evidence that property owners have been notified shall be copies of signed Return Receipts or Receipts for Certified Mail in instances when Return Receipts were not returned to the applicant.
  - C. Section 3.06.03. Conditional Uses A.3. The applicant shall notify all property owners within a 200 foot radius of the property(ies) boundaries prior to the hearing. Such notice shall include, but not be limited to, information about the nature of proposed conditional use request of the property(ies) for which the conditional use is being requested, as well as the date, time, and location of the public hearing at which the request will be heard. The applicant shall be responsible for the cost of such notifications, which shall be sent Certified Mail, Return Receipt Requested.
  - D. Section 3.06.03. Conditional Uses A.5. b. all procedural requirements

have been met, including the submission of a complete application and proper notification of affected property owners. Evidence that property owners have been notified shall be copies of signed Return Receipts or Receipts for Certified Mail in instances when Return Receipts are not returned to the applicant.

**Ord. No. 2005-804**

1. Amendments. The following 'Permitted Uses' in Article IX, Section 9.03.0. Permitted Uses, table 'B' be amended to read as follows:

| <b>PERMITTED USES</b>             | <b>I</b> | <b>I-H</b> |
|-----------------------------------|----------|------------|
| Auto Auction                      | CU       | X          |
| Automobile Wrecking and Junk Yard | CU       | X          |
| Bus or Truck Storage or Garage    | CU       | X          |

**Ord. No. 2005-818**

Article V, Subsection 5.01.02, Coverage Limitations.

1. Accessory building(s) or structure(s) may be built within a required rear yard when located at least five feet (5') from all other buildings of the same lot in addition to meeting the setback requirements for the district in which the lot is located, is not located within any public easement, and when occupying, in the aggregate, not more than:
1. In residential districts, thirty percent (30%) of the area of such required rear yard.
  2. In commercial districts, thirty percent (30%) of the rear yard or ten percent (10%) of the area of the lot, whichever results in the smaller accessory building(s).
  3. In industrial districts, if operated partially or entirely:
    - a. in detached structures, such detached structures shall be limited to a gross floor area of not more than ten percent (10%) of the area of the lot on which the principal permitted use and the accessory use are located, or thirty percent (30%) of the required rear yard, whichever results in the smaller accessory building(s).
    - b. within the structure containing the principal permitted use, the gross floor area within such structure(s) utilized by accessory uses, excepting garages, loading docks, and company dining rooms, shall not be greater than ten percent (10%) of the gross floor area of the structure(s) housing principal permitted use and the accessory use.
  4. Satellite dishes or other electronic antennae larger than eighteen inches (18") in diameter must be placed in the rear yard only.
  5. Portable buildings, not larger than one hundred twenty (120) square feet in size, not built on a permanent foundation, may be placed within five feet (5') of a rear or side lot line, provided it is not located in any utility easement.

**Ord. No. 2008-853**

1. Amendment to Zoning Regulations. That Article IX INDUSTRIAL DISTRICTS of the Zoning Regulations of the City of Osceola, Arkansas as approved and adopted by the Osceola Planning Commission on the 5th day of June, 2008, after

a Public Hearing held on the 5th day of June, 2008, are hereby adopted as follows:

2. Article IX, Industrial Districts, Section 9.02.03 - Exemptions; Section 5.20.0 - Sidewalks Required; and Section 9.05.02 - Solid Fence or Wall as set forth in the Osceola Zoning Regulations shall not apply to districts classified as industrial heavy (I-H).
3. Article IX, Industrial Districts, Section 9.05.01 -Noise Requirements; For the purposes of these regulations, the emission of any sound inherently and recurrently generated which exceeds seventy-five (75) decibels at any boundary line on the lot on which such sound is generated, is considered obnoxious.
4. Article IX, Industrial Districts, Section 9.04.0-Notes: e. the height requirements listed for the industrial heavy (I-H) classification shall not apply to property boundaries that lie adjacent to the St. Francis Levee District.
5. Conflicts. All zoning regulations in conflict herewith are hereby repealed. Section 3. Penalties. Any person, firm, or corporation found guilty of violating any of the provisions of this Ordinance shall be fined for each such violation as provided by law.

## Chapter 14.08

### Flood Damage Prevention Code

#### Sections:

|          |   |
|----------|---|
| 14.08.01 | Statutory Authority                               |
| 14.08.02 | Findings Of Fact                                  |
| 14.08.03 | Statement Of Purpose                              |
| 14.08.04 | Lands To Which This Ordinance Applies             |
| 14.08.05 | Methods Of Reducing Flood Losses                  |
| 14.08.06 | Flood Damage Prevention Code Adopted By Reference |
| 14.08.07 | Abrogation And Greater Restrictions               |
| 14.08.08 | Interpretation                                    |
| 14.08.09 | Warning And Disclaimer Of Liability               |
| 14.08.10 | Compliance  |
| 14.08.11 | Penalty For Non-Compliance                        |

#### **14.08.01 Statutory Authority**

The Legislature of the State of Arkansas has in Ark. Code Ann. § 14-268-101 et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the City Council of the City of Osceola, Arkansas, does hereby ordain as follows: Ord. No. 2010-874.

#### **14.08.02 Findings Of Fact**

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of City of Osceola in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Mississippi County, Arkansas and Incorporated Areas," dated June 18th, 2010, with an effective Flood Insurance Rate Map (FIRM) dated June 18th, 2010. Ord. No. 2010-874.
- B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare. Ord. No. 2010-874.
- C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events. Ord. No. 2010-874.

#### **14.08.03 Statement Of Purpose**

The purpose of this ordinance is to promote the public health, safety and general welfare,

to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- A. Protect human life and health;
- B. Protect natural floodplains against unwise development;
- C. Eliminate adverse impacts of necessary floodplain development;
- D. Minimize expenditure of public monies on flood control projects;
- E. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- F. Minimize prolonged business interruptions due to flooding events;
- G. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- H. Minimize future flood blight areas to help maintain a stable tax base; and
- I. Provide for notice to potential buyers when property is in a Special Flood Hazard Area. Ord. No. 2010-874.

#### **14.08.04 Lands To Which This Ordinance Applies**

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Osceola, Arkansas. Ord. No. 2010-874.

#### **14.08.05 Methods Of Reducing Flood Losses**

This ordinance uses the following methods to accomplish the stated purpose:

- A. This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;
- B. This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
- C. This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- D. This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction; individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- E. This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands. Ord. No. 2010-874.

#### **14.08.06 Flood Damage Prevention Code Adopted By Reference**

There is hereby adopted by reference a "Flood Damage Prevention Code for the City of Osceola, Arkansas," dated February 15, 2010. The code shall include:

ARTICLE 1 DEFINITIONS

## ARTICLE 2 ADMINISTRATION

## ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION

A copy of the referenced code shall be filed in the office of the Mayor and shall be available for inspection and copying by any person during normal office hours. Ord. No. 2010-874.

### **14.08.07 Abrogation And Greater Restrictions**

This ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies. Ord. No. 2010-874.

### **14.08.08 Interpretation**

In the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and
- C. Be deemed to neither limit nor repeal any other powers granted under State statutes. Ord. No. 2010-874.

### **14.08.09 Warning And Disclaimer Of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance. Ord. No. 2010-874.

### **14.08.10 Compliance**

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations. Ord. No. 2010-874.

### **14.08.11 Penalty For Non-Compliance**

Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.

- A. The Floodplain Administrator must enforce the provisions of this ordinance and is authorized to
- B. Issue cease and desist orders on non-compliant floodplain development projects;
- C. Issue citations for non-compliance;
- D. Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-



compliant properties; and

- E. Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
  - 1. It is a misdemeanor to violate or fail to comply with any provision of this ordinance.
  - 2. Any person found, in a court of competent jurisdiction, guilty of violating this ordinance is subject to fines of not more than \$500 per day for each violation; in addition, the defendant is subject to payment of all associated court costs and costs involved in the case. Ord. No. 2010-874.

## CHAPTER 14.12

### ANNEXING AND REZONING PROPERTY

Sections:

|          |          |
|----------|----------|
| 14.12.01 | Annexing |
| 14.12.02 | Rezoning |

#### **14.12.01 Annexing**

##### **Ord. No. 265**

Begin at the SW corner of Sec. 36, Twp. 13N, Range 10 E, said point of beginning being at the intersection of the centerline of U.S. Highway No. 61 with a road commonly known as Lovewell Lane; run thence N. along the centerline of said Lovewell Lane 1,519.5 ft. to a point 20 ft. E of the SE corner of the Dixie Gin Co. lot; run thence W along the S line of said Gin Co. lot 370 ft.;

##### **Ord. No. 267**

That the petition of E.S. Shippen, Mattie E. Shippen and C.M. Harwell, and other requesting the annexation to the City of Osceola of the following described territory be and the same is hereby approved and ratified and that said territory shall be a part of said City, as follows, to-wit: Beginning at a point, the Range Line between Ranges 10 & 11 East which is the intersection of the present north city limits line of said City of Osceola and the Range line dividing Ranges 10 & 11 E. running thence West 310 feet, thence South 20 feet thence due West along said North City Limits Line of the City of Osceola, Arkansas to a point which is the center line of Plum Point Bayou, thence in a northwesterly direction with the center line of the right of way of the St. Louis-San Francisco Railway Right of way, thence due north to a point which is 620 feet north and 1320 feet west of the point of beginning thence East 1320 feet to the aforesaid range line, thence South 620 feet to the point of beginning; same being in the E1/2 NE1/4 Sec. 36, Twp. 13N.R. 10 E.

That said territory shall henceforth be a part of Ward No. 1 of the City of Osceola, Arkansas and shall be considered a part thereof as fully as any part of the same.

##### **Ord. No. 284**

That part of the SW1/4 Section 36 Township 13 N. Range 10 E., described as follows: Beginning at a point on the West line of Elm Street 125 feet South of the South Line of Hale Avenue in the City of Osceola, Arkansas; running thence West, parallel to said South Line of Hale Avenue 553 feet, thence South 25 feet, thence West, parallel to said South Line of Hale Avenue, a distance of 655.03 feet, thence South 315 feet thence East parallel with South Line of Hale Avenue 1208.03 feet to West Line of Elm Street, thence North along; the West Line of Elm Street 340 feet to the point of beginning, and embracing all the lots and streets in the Osceola Housing Addition to Osceola, Arkansas.

##### **Ord. No. 288**

That the petition of G. E. Holley, Enoch Jones and Isaiah Brown, and others requesting the annexation to the City of Osceola, of the following described territory be and the same is hereby

approved and ratified and that said territory shall be a part of said City, as follows, to-wit:  
That part of the NE1/4 Section One in Township 12 North, Range 10 E. described as follows:

**Ord. No. 289**

That the petition of Guy M. Cox, E.H. Stakes and W.H. Meadows, and others requesting the annexation to the City of Osceola of the following described territory be and the same is hereby approved and ratified and that said territory shall be a part of said City, as follows, to-wit:  
That tract of land located in E1/2 NE1/4 Sec. 36, Twp. 13 N., R. 10 E. and W1/2 NW1/4 Sec. 31, Twp. 13 N. R. 11 E., described as follows;

**Ord. No. 305**

That the petition of William T. Fletcher, Same T. Edrington and John W. Taylor, and others requesting the annexation to the City of Osceola of the following described territory be and the same is hereby approved and ratified and that said territory shall be a part of said City, as follows, to-wit;  
Begin at a point on the west line of Elm Street of the City of Osceola, Arkansas, 140 feet south of the intersection of said west line of Elm Street and the south line of Ford Avenue as measured along the said West line of Elm Street, run thence westwardly and parallel with the said south line of Ford Avenue 1163.03 feet to the west line of Grandview Street, run thence southwardly along said west line of Grandview Street 870.5 feet;

**Ord. No. 346**

That the following described lands and territory contiguous and adjoining the City of Osceola, Arkansas, be, and the same is hereby accepted as part of and annexed to and made a part of the City of Osceola:  
A tract of land carved out of the West Half of the Northwest Quarter (NW1/4) of Section 36, Township 13 North, Range 10 East, Mississippi County, Arkansas, containing 29.04 acres, more or less. More particularly described as follows:

**Ord. No. 425:**

The property annexed to the City of Osceola, Arkansas, on August 22, 1967, and shown on a plat filed with the County Clerk in Osceola, Arkansas, in Clause No . 470, said plat showing the area hereby intended and designated as being situated along and on both sides of Arkansas Highway No. 140 beginning 600 feet East of the Intersection of Arkansas Highway No. 140 and U.S. Highway No. 61 and running West along said Arkansas Highway No. 140 to a mile past the Intersection of Arkansas Highway No. 140 and Interstate No . 55, including the Cottonwood Corner area and the area surrounding the Riverlawn Country Club and further including an area South along said U.S. Highway No. 61 from the said Intersection of Arkansas Highway No. 140 and U.S. Highway No. 61 to 600 feet South of the North Section Line of Section 11, Township 13 North, Range 10 East, is hereby included in precinct 33B.

**Ord. No. 455**

A tract carved out of the Northwest one-quarter (NW ¼) of Section 2, Township 12 North, range 10 East, described as follows:

Beginning at a point on the North-South ¼ line of Section 2, Township 12 North, Range 10 East, Miss. County, Ark., said point being 757.4 feet South of and 30.6 feet East of the North ¼ corner of Section 2, Township 12 North, Range 10 East, Miss. County, Ark.; thence along the North-South ¼ line of Section 2 South 2 degrees 19 minutes East 656.1 feet to a point; thence, and leaving the North-South ¼ line of Section 2 South 89 degrees 15 minutes West 665.1 feet to a point; thence, North 2 degrees 09 minutes West 656.1 feet to a point on the South line of a 40 acre tract described in Deed Record 122, page 110, Mississippi County, Courthouse Osceola, Arkansas; thence, and along the South line of said 40 acre tract North 89 degrees 15 minutes East 663.2 feet to the point of beginning, containing 10.0 acres.

**Ord. No. 1978-29**

A parcel of land in the Northwest Quarter (NE 1/4) of Section 36, Township 13 North, Range 10 East, Mississippi County, Arkansas, described as follows:

**2008-856**

Part of the West Half of Section 6, Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 16.65 acres, more or less, of The Prudential Insurance Company of America property and more particularly described as follows:

Part of the Southwest

Quarter of Section 6 and part of the West Half of Section 7, Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 129.77 acres, more or less, of The Prudential Insurance Company of America property and more particularly described as follows:

Part of the Northwest Quarter of the Southwest Quarter of Section 6,

Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 1.14 acres, more or less, of the City of Osceola River Port Authority property and more particularly described as follows:

Part of the Southwest Quarter of Section 6, Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 40.01 acres, more or less, of the City of Osceola River Port Authority property and more particularly described as follows:

Part of the Southeast Quarter of the

Northwest Quarter, the East Half of the Southwest Quarter, and the West Half of the Southeast Quarter of Section 7 and a part of the Northeast Quarter of the Northwest Quarter of Section 18, Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 75.08 acres, more or less, of the I.O. Crosthwait Family Trust property and more particularly described as follows:

Part of the East Half of the

Southeast Quarter of Section 13, Township 12 North, Range 10 East, Part of the Northeast Quarter, the Southeast Quarter, and the Southwest Quarter of Section 18, Part of the Southeast Quarter of Section 7, and Part of the West Half of Section 17, Township 12 North, Range 11 East, Osceola District, Mississippi County, Arkansas, being 662.21 acres, more or less, of the City of Osceola (Plum Point Energy Plant) property and more particularly described as follows:

That the following described property be and the same is hereby zoned Agricultural (A) in accordance with the zoning regulations of the City of Osceola, Arkansas, to-wit: Tract I - The Prudential Insurance Company of America; Tract 2 - The Prudential Insurance Company of America; and Tract 5 - I.O. Crosthwait Family Trust, all of which is more specifically described

hereinabove.

That the following described property be and the same is hereby zoned Heavy Industrial (I-H) in accordance with the zoning regulations of the City of Osceola, Arkansas, to-wit: Tract 3 - Osceola Riverport Authority of Osceola, Arkansas, an Agency of the City of Osceola; Tract 4 - Osceola Riverport Authority of Osceola, Arkansas, an Agency of the City of Osceola; and Tract 6 - City of Osceola, Plum Point Energy Plant, all of which is more specifically described hereinabove.

#### **14.12.02 Rezoning**

##### **Ord. No. 437**

That a parcel of land abutting 100 feet on the South right-of-way line of Arkansas State Highway 140, 600 feet deep North and South, and lying 600 feet West of the West right-of-way line of Country Club Road, which said tract is carved out of the North 600 feet of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section 4, Township 12 North, Range 10 East, in the Osceola District of Mississippi County, Arkansas, be re-zoned and reclassified from Agricultural use zone to zone C-2 as a General Commercial Zone.

##### **Ord. No. 440**

Ord. No. 438 of the Ordinance of City of Osceola, Arkansas, and the “Zoning Map” attached thereto, adopted August 9, 1971, be and the same hereby is, amended to read as follows:  
Lot 1, Block 13, Osceola Townsite Addition to Osceola, Arkansas.

##### **Ord. No. 441**

That a tract in the Southwest Quarter (SW ¼) of Section 36, Township 13 North, Range 10 East, more particularly described as follows: Begin at a point 1423.19 feet South and 30 feet East of the Northwest corner of said Southwest Quarter (SW ¼), which point of beginning is on the East line of Ermen Lane in the City of Osceola, Arkansas, and run thence South 338.55 feet; thence East 321 feet; thence North 338.55 feet; thence West 321 feet to the point of beginning, in the Osceola District of Mississippi County, Arkansas, be re-zoned and re-classified from Residential R-1 to Residential R-2.

##### **Ord. No 442**

A variance of the side yard 5’ square at the northeast corner of the building for the purpose of erecting and maintaining a safe waste paper material incinerator facility.

##### **Ord. No. 443**

From R-3 to C-2

A lot or parcel of land with a frontage of 132.5 feet on the north side of Lee Avenue and a frontage of 125 feet on School Street, and more particularly described as follows:  
Beginning at a point at the intersection of the west line of School Street and the north line of Lee Avenue, running thence westwardly along the north line of Lee Avenue 132.5 feet to a point; thence northwardly and parallel with the said west line of School Street 125 feet to a point; thence eastwardly and parallel to the said north line of Lee Avenue 132.5 feet to a point in the said west line of School Street, thence southwardly along the said west line of School Street 125

feet to the point of beginning, situated in the Southwest Quarter of Section 36, Township 13 North, Range 10 East.

**Ord. No. 446**

That Lot Thirteen (13), Block "B", Highland Addition in the Osceola District of Mississippi County, Arkansas, be re-zoned and re-classified from Residential R-3 to Commercial C-2.

**Ord. No. 453**

Lot 1 in the Brian Addition to the City of Osceola, Arkansas is hereby amended to show said Lot 1 zone to be changed from R-2 to R-3 and that the West line set back be changed from 20 feet to 19 feet and 3 inches and that the ditch be tiled along the West line of said Lot 1 and filled according to specifications approved by the City Engineer and that the sidewalk be extended from the Catholic Church property line along the West line of said Lot 1 to concrete street running in front of South line of said Lot 1.

**Ord. No. 454**

A certain tract of land craved out of the Northeast Quarter of the Norhtwest Quarter (NE ¼ NW ¼) of Section Five (5), Township Twelve (12) North, Range ten (10) East, more particularly described as follows:

Beginning at a point 1409.0 feet East of and 30 feet South of Northwest Corner of Section 5, Township 12 North, Range 10 East, said point being on the South right-of-way line on State Highway #140; thence East along said right-of-way line 250 feet; thence South 0° 00' 225 feet; thence East along said right-of-way line 200 feet; thence South 0° 00' feet; thence West 115': thence South 0° 00' feet; thence West 305'; thence North 0°00' 455 feet; thence East to the point of beginning of the tract in the Osceola District of Mississippi County, Arkansas, be re-zoned and reclassified from Agricultural use zone to use zone C-2 as a General Commercial zone. That Lots 23 and 24 of Block 1 in the Townsite Addition to the City of Osceola, Arkansas, in the Osceola District of Mississippi County, Arkansas, be re-zoned and re-classified from Z-1 Industrial to use zone C-2 as a General Commercial zone.

**Ord. No. 456**

That Lot Twelve (12), Block "B", Highland Addition to Osceola, Arkansas, be re-zoned and re-classified from Residential R-3 to Commercial C-2.

**Ord. No 456A**

That a 293 feet by 800 feet tract carved out of the Northeast Quarter (NE1/4) of Section 3, Township 12 North, Range 10 East, in the City of Osceola, Arkansas, more particularly described as follows, to-wit: Beginning at a stake in the center of Ditch No. 2 177 feet South of the quarter corner of said Section 3 and on the South right of way line of State Highway 140; running thence East along said right of way line of Highway 140 293 feet to state; thence South 800 feet to a stake; thence West 293 feet to a stake; thence North 800 feet to the point of beginning, be re-zoned and re-classified from Agriculture Zone A to General Commercial Zone C-2.

**Ord. No. 459**

A parcel of land carved out of the Northeast Quarter (1/4) of Section 2, Township 2 North,

Range 10 East, Mississippi County, Arkansas. Beginning at a point on the South right-of-way of State Highway 140, 876 feet West of the NE corner of Section 2-12-10. This point is same point described in Deed Record 154, Page 311, Circuit Clerk's Office, Osceola, Ark., thence S-1-12-E 632.8 feet to a point, thence East 1838.1 feet to the West right-of-way of U.S. Highway 61. Thence N-1-12-W 200 feet along said right-of-way to the Southeast corner of Osceola Motor Co. Property. Thence West along South line of said Motor Co. property and also South line of property on West side of Motor Co. 838.1 feet to a point, thence N-1-12-W 432.8 Feet to the point of the beginning. Containing 19.37 acres more or less. All in the NE (1/4) Section 2-12-10, Mississippi County Ark., be rezoned and reclassified from Agricultural Zone A to General Commercial Zone C-2.

**Ord. No. 467**

From R-1 to R-4

The parcel of land on the north side of N.S. Highway 61 (Keiser Ave.) with a frontage on said highway of approximately 562.6 feet, and bounded on the south by the said north line of said U.S. Highway 61 and on the north by a line approximately 200 feet north and parallel with the said north line of said U.S. Highway 61; the said north line being the south line of property conveyed to Osceola School District #1 of Mississippi County by Warranty Deed dated on or about February 15, 1960, and bounded on the west by the east line of Marjorie Street.

**Ord. No. 469**

A lot 196.2 feet North and South by 100 feet East and West at the Northwest Corner of the intersection of Keiser Ave. and School St. and U.S. Highway No. 61 and South of the Charles Kennemore Second Addition to Osceola, Arkansas, in the Southwest Quarter (SW ¼) of Section 36, Township 13 North, Range 10 East, more particularly described as follows: Beginning at a stake 40 feet North of the center line of U.S. Highway NO. 61 and 583 feet West and 40 feet North of the South Quarter Corner of said Section 36, said point being 25 feet West of the center line of School Street for the point of beginning; running thence North 196.2 feet to a stake; thence West 100 feet to a stake; thence South 196.2 feet to the point of beginning, all as shown by a Plat of said lot recorded in Plat Book 5 at Page 108 in the office of the Recorder for Mississippi County at Osceola.

Reclassified from Low Density Residential Zone R-1 to General Commercial Zone C-2

**Ord. No. 470**

Reclassified from Agriculture Zone A to Commercial C-2.

Beginning at a point 52.8 feet South of and 705.9 feet East of NW Corner Section 1. Said point located on the South ROW line of U.S. Highway No. 61; thence and leaving said South ROW line South 6000.0 feet to a point. Thence N 88-58 W 666.0 feet to a point on the East ROW Line North 409.2 feet to the PC of a curve. Thence and along said curve (191 02' R=187.4 feet) a distance of 297.7 feet to the PT of a curve. Thence and continuing along the South ROW line of U.S. Highway 61. S88-58E 475.2 feet to the point of beginning.

The above described tract is carved out of the NW ¼ Section 1, Township 12 North, Range 10 East, Mississippi County, Arkansas and contains 6.11 acres.

**Ord. No. 1974-472**

That Lots Five (5) and Four (4), less and except the East 50 feet of Lot Four (4), of Block "E",

J.D. Driver Addition in the City of Osceola, Mississippi County, Arkansas, as shown by Plat recorded in Plat Book 3, Page 42, in the Circuit Clerk's office at the Courthouse in Osceola, Arkansas, be rezoned and reclassified from Residential R-3 to Commercial C-1.

**Ord. No. 1975-482**

A lot 196.2 feet North and South by 125 East and West at the Northeast Corner of the intersection of Keiser Avenue and Grandview, the same being the West 125 feet of the South 196.2 feet of Lot 58 of the Irregular Lots in the Southwest Quarter of Section 36, Township 13 North, Range 10 East, as shown by a Plat of said tract recorded in Plat Book 3 at Page 128 (86) in the Office of the Recorder for Mississippi County at Osceola, Arkansas.  
From Low Density Residential Zone R-1 to General Commercial Zone C-2.

**Ord. No. 1975-486**

A lot approximately 195 feet North and South by 100 feet East and West, the same beginning the West 100 feet of the East 200 feet of the South 196.2 feet of Lot 58 of the Irregular Lots in the Southwest Quarter of Section 36, Township 13 North, Range 10 East, as shown by a Plat of said tract recorded in Plat Book 3 at Page 128 (86) in the Office of the Recorder for Mississippi County at Osceola, Arkansas, and more particularly described as follows: A parcel of land on the North side of U.S. Highway 61 (Keiser Avenue) with a frontage of the said U.S. Highway 61 (Keiser Avenue) of 100 feet running North between parallel lines with a depth of approximately 195 feet, more or less, more particularly described as follows: beginning at a point in the North line of U.S. Highway 61 (Keiser Avenue), 100 feet West of the intersection of said North line of U.S. Highway 61 (Keiser Avenue), and the West line of School Street, and running thence Westwardly along the said North line of U.S. Highway 61 (Keiser Avenue) 100 feet to a point; thence Northwardly, and parallel with the said West line of School Street approximately 195 feet, more or less, to a point in the North line of Grantor's property, being the South line of parcel conveyed by Grantor to Charles R. Kennemore, by Deed dated on or about Jan. 3, 1961; thence Eastwardly 100 feet, more or less, and parallel or almost parallel with the said U.S. Highway 61 (Keiser Ave.) along said Grantor's North line to a point, being the intersection of Grantor's North line and the West line of parcel conveyed by the Grantor to Charles R. Kennemore, Sr., and Charles R. Kennemore, Jr. by Deed dated on or about January 14, 1974; thence Southwardly along said line and parallel to the said West line of School Street approximately 195 feet, more or less, to a point in the North line of U.S. Highway 61 (Keiser Avenue) the point of beginning.

From Low Density Residential Zone R-1 to General Commercial Zone C-2.

**Ord. No. 1975-487**

From A to C-2.

A lot 110 feet East and West by 250 feet North and South carved out of the East Half of the West Half of the Southwest Quarter (E ½ W ½ SW ¼) of Section 35, Township 13 North, Range 10 East lying and being in the Osceola District of Mississippi County, Arkansas, more particularly described as follows:

**Ord. No. 1976-494A**

That the above described property is hereby zoned District R-3, high density residential.

A parcel of land carved out of the West half (1/2) of Section 2, Township 12 North, Range 10



East, Mississippi County, Arkansas.

**Ord. No. 1977-**

From C-2 to R-3

That a parcel of land carved out of the west two thirds (2/3) of the South 60 acres of the Southeast Quarter (SE ¼), Section 35, Township 13 North, Range 10 East, described as follows to wit:

**Ord. No. 1978-515**

Zoned District R-3.

A parcel of land carved out of the West Half (W ½) of Section 2, Township 12 North, Range 10 East, Mississippi County, Arkansas, described as follows:

**Ord. 1978-516**

District 1, Industrial

Beginning at a point 725 feet East of and 25 feet South of the Northwest Corner of the Southeast Quarter of Section 1, Township 12 North, Range 10 East, Mississippi County, Arkansas, described as follows:

A parcel of land in Section 1, Township 12 North, Range 10 East, Mississippi County, Arkansas, described as follows:

**Ord. No. 1978-518A**

To District R-3

A parcel of land in the Northwest Quarter (NW 1/4) of Section 36, Township 13 North, Range 10 East, Mississippi County, Arkansas, described as follows :

**Ord. No. 1979-520**

From Law Density Residential R-1, to C-2 General Commercial District.

A tract of land in the Northwest Quarter of Section 1, Township 12 North, Range 10 East, Mississippi County, Arkansas

**Ord. No. 1979-523**

From R-1 to C-2

The West Half (W1/2) of a tract or parcel of land 200 feet North and South by approximately 562.6 feet more or less East and West, lying between Marjorie Street and Grandview Street along the North side of Keiser Avenue (U.S. Highway No. 61) and more particularly described as follows:

**Ord. No. 1981-556**

From R-3 to C-2

Known as the north 70 feet of the West 74 feet of Lot Five (5), of Block A, Highland Addition to the City of Osceola, Arkansas, according to plat of record recorded in Survey Book D, at page 153, in the Office of the Recorder for the Osceola District of Mississippi County, Arkansas, shall be rezoned from a classification of R-3 to C-2.

**Ord. No. 1982-562**

From R-3 to General Commercial

Lots 1, 2, 3 in Block E and the North 80 feet of Block L of the Keiser Addition to the City of Osceola, Arkansas.

**Ord. No. 1982-570**

From R-1 to R-2

That Lot Five (5), Block One (1) of the Charles Kennemore Second Addition to the City of Osceola, bearing the street number description of 608 West Union Street, Osceola, Arkansas, be and hereby is re-zoned pursuant to the applicable provisions of Zoning Ordinances of the City of Osceola, and the said zoning of said property is hereby changed from R-1 Zone to R-2 Zone under the provisions of said Zoning Ordinance.

**Ord. No. 1982-572**

To R-2

Beginning at a point 1330 .3 feet South of and 40 feet .West of the Northeast Corner of Section 2, Township 12 North, Range 10 East, which point is on the West right- of-way line of United States Highway #61; thence South along said right-of- way 680.7 feet ; thence West 639.7 feet; thence North 680.7 feet; thence East 639.7 feet to the point of beginning. Containing 10 acres. All in the Northeast Quarter of Section 2, Township 12 North, Range 10 East, Mississippi County, Arkansas.

**Ord. No. 1984-593**

To C-2

Lot 21, Block "A", Highland Addition to the City of Osceola, Artkansas, more particularly described as:

One lot, 50 X 150 feet in Northwest Quarter (NW 1/4) Section 31, Township 13 North, Range 11 East, described as follows: Beginning at a point 891 feet North and 340 feet east of the Southwest corner of Northwest Quarter of Section 31, Township 13 North, Range 11 East, running thence North 50 feet, thence West 150 feet, t hence South 50 feet, thence East 150 feet to the point of beginning.

**Ord. No. 1985-597**

1. That Lot Seven (7) and the West Half (1 /2 ) of the North Half (1/2) of Lot Six ( 6), Block No. 22, of the Osceola Townsite Addition to the City of Osceola, Arkansas, be and hereby is re-zoned pursuant to the applicable provisions of Zoning Ordinances of the City of Osceola, and the said zoning of said property is hereby changed from R-2 (Medium Density Residential) to C-2 (General Commercial) under the provisions of said Zoning Ordinance.

**Ord. No. 1985-599**

From A to R-3

That from and after the passage of this Ordinance, the above property described as beginning at a point on the North Line of Section 3, Township 12 North, Range 10 East, which point is 322.74 feet West of the Northeast Corner of Section 3; thence South 2,729. 1 feet to a point on the East and West center line of Section 3, thence West 601.22 feet to a point on said center line; thence North 2,735 .7 feet to a point on the North line of Section 3; thence 572 .22 feet East to the point

of beginning, containing 36.82 acres, all in the East Half of Section 3, Township 12 North, Range 10 East, Mississippi County, Arkansas, subject to the right-of-way easements of Arkansas Power & Light Company, according to Plat of record recorded in Survey Book B at Page 78 in the Office of the Recorder for the Osceola District of Mississippi County, Arkansas shall be rezoned from a classification of A to R-3.

That this property shall be a part of Voting Precinct 33-A within the City of Osceola, Arkansas.

**Ord. No. 1985-600**

That the following described property be and is hereby designated and zoned as R-3, High Density Residential and designated as a part of voting precinct 33-B within the City of Osceola, Arkansas, to-wit:

Beginning at a point on the North Line of Section 3, Township 12 North, Range 10 East, which point is 322.74 feet West of the Northeast Corner of Section 3; thence South 2,729.1 feet to a point on the East and West center line of Section 3; thence West 601.22 feet to a point on said center line; thence North 2,735.7 feet to a point on the North line of Section 3; thence 572.22 feet East to the point of beginning. Containing 36.82 acres. All in the East Half of Section 3, Township 12 North, Range 10 East, Mississippi County, Arkansas, subject to the right of way easements of Arkansas Power & Light Company.

**Ord. No. 1990-634**

From A to C-2

A tract or parcel of land at the corner north of Highway 61 and east of side road 716, more particularly described as follows:

11.02 acre tract of land lying in the Northwest Quarter (NW ¼) of Section 1, Township 12 North, Range 10 East, Mississippi County, Arkansas, being more particularly described as follows:

**Ord. No. 1991-643**

From C-2 to R-3

That certain parcel of land beginning at the Intersection of U. S. Highway 61 and Barham Street in Osceola, Arkansas, thence Southwesterly 300 feet to a point, thence West 80 feet to a point, thence North 103 feet to the Maple Cove right-of-way line, thence Northwest along said Maple Cove right-of-way line to the Intersection of Maple Cove and Barham Street, thence East to the Point of Beginning.

**Ord. No. 1991-655**

From A to C-1

That from and after the passage of this Ordinance, the above property described as a lot in the SE 1/4 SW 1/4 Section 34, Township 13 North, Range 10 East, City of Osceola, Osceola District, Mississippi County, Arkansas,

**Ord. No. 1993-683**

To CR-1 Commercial

BEGIN AT THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 13 NORTH, RANGE 10 EAST;

BEGIN AT THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 13;  
NORTH, RANGE 10 EAST;  
BEGIN AT THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 13;  
NORTH, RANGE 10 EAST;

**Ord. No. 1992-668**

From A-C-1

A 1.67 acre lot lying in the Northeast Quarter (NE ¼) Northeast Quarter (NE 1/4) of Section 4, Township Twelve North (T-12-N), Range Ten East (R-10-E), Mississippi County, Arkansas, and being more particularly described

**Ord. No. 1993-671**

A-C-1

A 200' x 300' lot situated in Section 34, Township 13 North, Range 10 East, Osceola District, Mississippi County, Arkansas.

**Ord. No. 1994-697**

From R-2 to C-2

That the East 216' of Lot 46 in the SW 1/4 of Section 36, Township 13 North, Range 10 East is hereby re-zoned from R-2 (Residential ) to C-2 (Commercial).

**Ord. No. 1996-716**

R-2 to C-2

That the West 466.7 feet of lot 46 of the irregular SW ¼ of Section 36, Township 13 North, Range 10 East is hereby rezoned from R-2 (Medium Density Residential) to C-2 (General Commercial).

**Ord. No. 1996-721**

C-2 to CR-1

The Osceola Zoning District Map be amended as recommended by the Planning Commission as exhibited at the public hearing on September 3, 1996, said amendments being;

a. The re-zoning of certain areas previously zoned C-2 to CR-1.

**Ord. No. 1997-732**

R-1 to C-2

That from and after the passage of this Ordinance, the above property described as two (2) lots running 100' East and West and 200' North and South, and a street running 200' North and South and 50' East and west, as more particularly described on survey by John Archer attached hereto as Exhibit "A" and incorporated herein by reference as though set forth herein word for word, carved out of a 7.3 acre tract in the Northeast Quarter of the Northeast Quarter of Section 1, Township 12 North, Range 10 East, City of Osceola, Osceola District, Mississippi County, Arkansas, shall be rezoned from a classification of R-1. to C-2.

**Ord. No. 2001-765**

From R2 to R3

That from and after the passage of this ordinance, the subject property described below shall be

rezoned from a classification of R-2 to R-3:

The North 210 feet of a lot in the West 1/2 of SW 1/4 SE 1/4 of Section 35, T13N, R10E, Osceola, Mississippi County, Arkansas, bounded on the West by a 0.91 acre lot and a 1.96 acre lot, and bounded on the South by a 0.72 acre lot, and being more particularly described as: Commencing at the point of intersection of the North right-of-way line of Ark. Hwy 140 with the West line of SW 1/4 SE 1/4 point being 103.7 feet North of the Southwest corner of SW 1/4 SE 1/4; thence N89deg. 47'01"E with the right-of-way line 228.10 feet to the Southeast corner of the 0.91 acre lot; thence N00deg. 00'00"W with East line of the 0.91 acre lot 250.00 feet to the point of beginning; thence N00deg. 06'27"W with East line of the 0.91 acre lot and the 1.96 acre lot 472.31 feet; thence S89deg. 41'00"E 125.00 feet; thence S00deg. 06'23"E 471.15 feet; thence S89deg. 47'01"W 125.00 feet to the point of beginning and containing 1.35 acres more or less and being subject to any easements of record.

**Ord. No. 2002-777**

From R-1 to C-1

Lot No. 2 in Block 8 of the Osceola Townsite Addn., to the City of Osceola, Arkansas, the same being more particularly described as follows: A Lot 52 feet X 140 Feet in Block No. 8 in the Osceola Townsite Addition to Osceola, Arkansas, the same beginning at a point 125 feet due West of the Southeast corner of said Block No. 8; running thence due West along the South side of said Block, same being the North side of Johnson Ave. 52 feet to a stake, thence due North 140 feet to the South side of a 20 foot alley, thence due East along the South side of said alley 52 feet to a stake, thence due South to the Point of beginning, the same being in the NW 1/4 of the SE 1/4 of Section 36, Township 13 North, Range 10 East;

From and after the passage of this ordinance the above-described real property, more commonly known as 410 and 412 West Johnson Street, Osceola, Arkansas, shall be rezoned from a classification of R-1 to C-1.

**Ord. No. 2003-788**

R-1 to I

That from and after the passage of this ordinance the zoning designation for the subject property described below, shall change from a designation of R-1 (Low Density Residential) to I (Industrial):

"The east 1620 feet of the south 640 feet of Section 32, Township 13 North, Range 10 East along State Hwy No 140, and the west 2640 feet of the south 640 feet of Section 33, Township 13 North, Range 10 East along State hwy 140."

**Ord. No. 2005-805**

R-2 to R-3

A tract of land in Section 3, T12N, R10E, Mississippi County, Arkansas being more particularly described as: beginning at a point 322.74 feet West of and 2161.9 feet (2151.1 feet recorded) South of the Northeast corner of Section 3, T12N, R10E, Mississippi County, Arkansas, point being the southeast corner of Lot 2 Block B of Kelly Diane Second Subdivision; thence from point of beginning South 567.17 feet; thence West 290 feet; thence North 567.17 feet; thence East along the South side of Blocks A and B of Kelly Diane Second Subdivision 290 feet to the point of beginning and containing 3.79 acres more or less. SUBJECT, HOWEVER, to existing

easements and rights-of-way, both public and private; applicable laws, statutes, ordinances and restrictions.

That the above described property is hereby re-zoned from R-2 to R-3 for use as a multifamily apartment complex.

**Ord. No. 2005-813**

Beginning at the point of intersection of the North Line of Keiser Avenue (U.S. Highway No. 61) and the West line of School Street, said point beginning being 25 feet West of the center line of School Street and 40 feet North of the center line of Keiser Avenue (U.S. Highway No. 61) in Osceola, Arkansas; thence West along the North line of Keiser Avenue 100 feet to a point; thence North, and parallel to the said West line of School Street, 196.2 feet, more or less, to a point in the South line of the Charles Kennemore Second Addition to Osceola, Arkansas; thence East along said South line of said Addition 100 feet to a point in the West line of School Street; thence South along the said West line of School street 197 feet, more or less, to the point of beginning; all in the Southwest 1/4 Section 36, Township 13 North, Range 10 East, Mississippi County, Arkansas; the said point of beginning is 583 feet West of and 40 feet North of the South Quarter Corner (S 14) Section 36-T13N-R10E.

That the above described property is hereby re-zoned from C-2 to C-3 for use as a used car lot.

**Ord. No. 2005-815**

Ordinance No. 755 of the Ordinances of the City of Osceola, Arkansas, and the "Zoning Map" attached thereto, adopted the 21 51 day of February, 2000, be and the same hereby is amended to read as follows, to wit: That all of Lot 11 and the West part of Lot 10, of Block "I" of the Keiser Addition to the City of Osceola is hereby re-zoned and re-classified from presently zoned Residential R-3 in the Comprehensive Zoning Plan for the City of Osceola, Arkansas to Industrial.

**Ord. No. 2005-816**

A lot 160 feet by 200 feet located at 1502 W. Keiser Avenue, which is located west of and adjacent to the Evergreen Chinese Restaurant.

That the above described property is hereby re-zoned from C-2 to C-3 for the purpose of building and operating a carwash.

**Ord. No. 2006-833**

A lot 172 feet by 230 feet located at 169 West Circle Drive, which is located north of and adjacent to the Kennemore Home Improvement building site.

That the above described property is hereby re-zoned from R-2 to C-3.

**Ord. No. 2007-842**

That the zoning classification of the following property be and is hereby changed from R-2 Residential to C-2 Highway Commercial:  
Situated in the Southwest Quarter of Section 34, Township 13 North, Range 10 East in the

Osceola District of Mississippi County and State of Arkansas and known as being a part of a parcel of land conveyed to Betty McCutchen Wetencamp, Trustee of the Betty McCutchen Wetenkamp Revocable Trust by deed recorded in Real Estate Book 263, Page 79-83 in the Osceola District of Mississippi County, Arkansas Register of Deeds Office and is further bounded and described as follows:

Beginning at a 5/8" capped iron rebar set at the Southeasterly corner of land conveyed to Ching-Shan & Chiu-Mo Lin by deed recorded in Real Estate Book 247, Page 567-569 in the Osceola District of Mississippi County, Arkansas Register of Deeds Office said corner lying in the Northerly sideline of Keiser Road, Arkansas Highway No. 140 (width varies) said corner also lying North 85°45'50" East a distance of 1179.03 feet from a Cotton Spindle found at the centerline intersection of said Highway 140 with Arkansas Highway 119-Y and North 57°44'59" West a distance of 1417.62 feet from NGS Monument "FAA 7M4 A" NAD 83 Coordinates from SPC AR N: North 502,012.61, East 1,903,289.57;

Thence along said along the Easterly line of land so conveyed to Lin North 00°30'34" West a distance of 624.98 feet to a 5/8" capped iron rebar set at the Principal Place of Beginning of the premises herein intended to be described; thence continuing along said Easterly line North 00°30'34" West a distance of 86.40 feet to a 5/8" capped iron rebar set at the Northeasterly corner thereof; thence North 01°23'12" West a distance of 164.22 feet to a 5/8" capped iron rebar set; thence North 88°36'48" East a distance of 639.45 feet to a 5/8" capped iron rebar set; thence South 01°23'12" East a distance of 251.79 feet to a 5/8" capped iron rebar set; thence South 88°43'07" West a distance of 640.77 feet to the Principal Place of Beginning containing 3.6889 acres (160,687.79 square feet) of land, more or less, but subject to all legal highways and easements of record. Bearings used herein refer to Arkansas State Plane Coordinate (North) and are intended to indicate angles only.

**Ord. No. 2010-880**

Property Description:

N450' SW1/4, NW1/4, West of Levee of 6-12-11 (State ID Parcel #301-00087-100) (More commonly known as 0 South Broadway Street, Osceola, Arkansas.)

That the above described property is hereby re-zoned from R-2 "Residential" to IND "Industrial".

## Chapter 14.16

### Osceola Municipal Airport Zoning Ordinance

#### Sections:

|          |                                 |
|----------|---------------------------------|
| 14.16.01 | Definitions                     |
| 14.16.02 | Airport Zones                   |
| 14.16.03 | Airport Zone Height Limitations |
| 14.16.04 | Regulations                     |
| 14.16.05 | Future Uses                     |
| 14.16.06 | Existing Uses                   |
| 14.16.07 | Nonconforming Uses              |
| 14.16.08 | Variances                       |
| 14.16.09 | Obstruction                     |
| 14.16.10 | Enforcement                     |
| 14.16.11 | Board of Adjustment             |
| 14.16.12 | Appeals                         |
| 14.16.13 | Court Appeal                    |
| 14.16.14 | Penalties                       |

#### **14.16.01 Definitions**

Definitions. As used in this ordinance., unless the context otherwise requires:

1. AIRPORT - Osceola Municipal Airport
2. ELEVATION - The highest point of an airport's useable landing area measured in feet from sea level. Osceola Municipal Airport has an elevation of 235 feet above mean sea level.
3. APPROACH SURFACE - A surface longitudinally cantered on the extended runway centerline, extending upward and outward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of this ordinance . In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES – These zones are set forth in Section 3 of this ordinance.
5. BOARD OF ADJUSTMNET – A Board consisting of at least five members appointed by the Mayor as provided in Chapter XIV of the Osceola Zoning Regulations.
6. CONICAL SURFACE – A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable air space.
8. HEIGHT - For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map , the data shall be mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE -A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. NONCONFORMING USE -Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.
11. NONPRECISION INSTRUMENT RUNWAY - A runway having an existing



instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

12. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this ordinance.

13. PERSON - Any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of them.

14. PRIMARY SURFACE - A surface longitudinally centered on a runway. When a runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specifically prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for runway 1-19.

15. RUNWAY - A defined area on the airport prepared for landing and takeoff of aircraft a long its length.

16. STRUCTURE - An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers cranes, smokestacks, earth formation, and overhead transmission lines.

17. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for these portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

18. TREE - Any object of natural growth.

19. UTILITY RUNWAY - A runway that is constructed for and is intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less;

20. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures. Ord. No. 1980-535.

#### **14.16.02 Airport Zones**

Airport Zones. In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the airport. Such zones are shown on the airport zoning map, consisting of one sheet prepared by Miller- Newell Engineers, Ltd. Dated April 23, 1980, which is attached to this ordinance and made a part hereof. An area located in more than one of the, following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follow:

1. Utility runway nonprecision instrument approach zone (Runway 1-19) – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to the width of 2,000 feet at a horizontal distance 5,000 from the primary surface. Its centerline

- is the continuation of the centerline of the runway.
2. Transitional zones. The transitional zones are the areas beneath the transitional surfaces.
  3. The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones .
  4. Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zones and extends outward therefrom a horizontal distance of 4,000 feet. Ord. No. 1980-535.

#### **14.16.03 Airport Zone Height Limitations**

Airport Zone Height Limitations. Except as otherwise provided in this ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Nonprecision Instrument Approach zone-Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Transitional Zones-Slopes 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 235 feet above mean sea level. In addition to the foregoing, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.
3. Horizontal Zone-Established at 150 feet above the airport elevation or at a height of 385 feet above mean sea level.
4. Conical Zone - Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
5. Accepted Height Limitations-Nothing in this ordinance shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree up to 50 feet above the surface of the land. Ord. No. 1980-535.

#### **14.16.04 Regulations**

1. Regulation is not retroactive- Regulations prescribed by this ordinance shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which is begun prior to the effective date of this ordinance and is diligently prosecuted.
2. Marking and Lighting-Notwithstanding the preceding provision of this section,

the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City of Osceola Building Inspector to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Osceola, Arkansas. Ord. No. 1980-535.

#### **14.16.05 Future Uses**

1. Future Uses-Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land. No structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired. With sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless the variance has been approved in accordance with Section VII, 4.
  - A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  - B. An area lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 from each end of the runway. No permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - C. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transitional zones. Nothing contained in the foregoing exceptions shall be construed as permitting and intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this ordinance except as set forth in Section IV. Ord. No. 1980-535.

#### **14.16.06 Existing Uses**

Existing uses-No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto or than it was when the application for permit is made. Except as indicated, all applications for such a permit shall be granted. Ord. No. 1980-535.

#### **14.16.07 Nonconforming Uses**

Nonconforming Uses Abandoned or Destroyed. Whenever the City of Osceola Building Inspector determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Ord. No. 1980-535.

#### **14.16.08 Variances**

Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed by this ordinance, may apply to the Board of Zoning Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of the navigable air space. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this ordinance. Additionally, no application for variance to the requirements of this ordinance shall be considered by the Board of Adjustment unless a copy of the application has been furnished to the City Council for advice as to the aeronautical effects of the variance. If the City Council does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to grant or deny said application. Ord. No. 1980-535.

#### **14.16.09 Obstruction**

Obstruction, Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City of Osceola, at its own expense, to install, operate, and maintain necessary markings and lights. Ord. No. 1980-535.

#### **14.16.10 Enforcement**

It shall be the duty of the City of Osceola Building Inspector to administer and enforce the regulations prescribed herein. Application for permits and variances shall be made to the City of Osceola Building Inspector. Applications required by this ordinance to be submitted to the City Building Inspector shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City Building Inspector. Ord. No. 1980-535.

#### **14.16.11 Board of Adjustment**

The Board of Adjustment of the City of Osceola will have the same powers, responsibilities and duties with regard to the enforcement and application of this ordinance as with all other zoning regulations of the City of Osceola. Its practices and procedures as set out in Chapter 14 of the City of Osceola Zoning Regulations attached to this ordinance and made a part hereof shall be followed, unless the context of this ordinance otherwise requires. Ord. No. 1980-

**14.16.12 Appeals**

1. Any person aggrieved, or any taxpayer affected, by any decision of the City of Osceola Building Inspector made in the administration of the ordinance may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment by filing with the City of Osceola Building Inspector a notice of appeal specifying the grounds thereof. The City of Osceola Building Inspector shall forth with transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from is taken.
3. An appeal shall stay all proceedings and furtherance of the action appealed from unless the City of Osceola Building Inspector certifies to the Board of Adjustment, after notice of appeal has been filed with it, that by reason of the facts stated in the Certificate of Stay in the opinion of the City of Osceola Building Inspector would cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the parties involved and on due cause shown.
4. The Board of Adjustment shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the case in a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
5. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances. Ord. No. 1980-535.

**14.16.13 Court Appeal**

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may appeal to the Circuit Court of Mississippi County, Arkansas, Osceola District, as provided by Act 116 of 1941 and Act 401 of 1955, as amended, of the Acts of Arkansas. Ord. No. 1980-535.

**14.16.14 Penalties**

Each violation of this ordinance or any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$300.00 or imprisonment for not more than 10 days or both; and each day a violation continues to exist constitutes. Ord. No. 1980-535.

## Chapter 14.20

### Osceola Municipal Airport Zoning Ordinance

#### Sections:

14.20.01 Purpose

#### Sections:

|          |                                      |
|----------|--------------------------------------|
| 14.20.01 | Purpose                              |
| 14.20.02 | Certain Uses Not Covered             |
| 14.20.03 | Definition                           |
| 14.20.04 | Designation And Applicability        |
| 14.20.05 | Allow Able Uses/Development Criteria |
| 14.20.06 | Review Process                       |
| 14.20.07 | Approval Process                     |
| 14.20.08 | Shared Facilities And Collocation    |
| 14.20.09 | Removal Of Abandoned Facilities      |
| 14.20.10 | Nonconforming Facilities             |
| 14.20.11 | Revocation Of Tower Use Permits      |
| 14.20.12 | Penalty                              |
| 14.20.13 | Annual Review Process                |

#### **14.20.01 Purpose**

The City of Osceola recognizes that the City desires to encourage the orderly development of wireless communication technologies for the benefit of the City and its citizens. The city of Osceola also recognizes the character of the communities of the City of Osceola. As a matter of public policy the City of Osceola aims to encourage the delivery of new wireless technologies throughout the City of Osceola while controlling the proliferation of communication towers. Such development activities will promote and protect the health, safety, prosperity and general welfare of persons living in or near Osceola. Specifically, this Wireless Communication Facility Zoning Overlay Districts is designed to achieve the following:

- A. Provide a range of locations for Wireless Communication Facilities in various zoning districts;
- B. Encourage the location of Wireless Communication Facilities onto existing structures to reduce the number of new communication towers needed within the City of Osceola;
- C. Require Collocation and Site Sharing of new and existing Wireless Communication Facilities;
- D. Control the type of tower facility constructed, when towers are permitted;
- E. Establish adequate development and design criteria to enhance the ability of providers of telecommunication services to provide service to the community quickly, effectively, and efficiently;
- F. Protect residential and historic preservation areas from the uncontrolled development of Wireless Communications Facilities by requiring reasonable siting conditions;

- G. Promote the use of suitable sites for the location of wireless antennae, towers, and/or wireless communication facilities.
- H. Insure the harmonious, orderly and efficient growth and development of the City of Osceola;
- I. Stabilize the economy of the City of Osceola through the continues use of the City's public resources;
- J. Provide Overlay Districts in which the zoning regulations permit the development of wireless communication facilities which are consistent with the requirements of the Telecommunications Act of 1996 and in the best interest of the future of the City of Osceola;
- K. Provide clear performance standards addressing the siting of Wireless Communication Facilities; and
- L. Streamline and expedite the permitting procedures to effect compliance with the Federal Telecommunications Act of 1996; Ord. No. 2000-759.

#### **14.20.02 Certain Uses Not Covered By The Ordinance**

Nothing in this ordinance shall reduce any of the permitted uses of any zoned property within the City of Osceola. Nothing in this ordinance shall affect the right of a property owner to use or develop their property consistent with existing zoning regulations. Nothing in the ordinance shall affect the right of a property owner to continue any legal non-conforming use. Ord. No. 2000-759.

#### **14.20.03 Definitions**

- A. Construction Of Other Ordinances. To the extent this ordinance conflicts with the Zoning Ordinance, Sign Ordinance or any other ordinance of the City of Osceola, this ordinance shall control.
- B. Rules For Works And Phrases. For the purposes of this Ordinance, works used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory; the work "may" is permissive; the word "used" includes "designed" and "intended" or arranged to be used or occupied; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.
- C. Definitions. For the purpose of this Ordinance certain words, phrases and terms used herein shall be interpreted as stated in this Section III. The Code Enforcement Officer (CEO) shall define any work, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage in the region.

For the purpose of this Ordinance, all definitions defined herein are in addition to all definitions in the Zoning Ordinance of the City of Osceola. Ord. No. 2000-759.

- 1. **Antenna Array.** An Antenna Array is one or more rods, panels, disc or similar devices used for the transmission and/or reception of radio frequency signal, which may include Omni-directional antennae (rods), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support

Structure.

2. **Attached Wireless Communication Facility.** An attached Wireless Communication Facility is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cable, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.
3. **Collocation/Site Sharing.** collocation/Site Sharing shall mean use of a common Wireless Communication Facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of a Wireless Communication Facility on a structure owned or operated by a utility or other public entity.
4. **Equipment Facility.** An Equipment Facility is any structure used to contain ancillary equipment for a Wireless Communication Facility which includes cabinets, shelter, a build out of an existing structure, pedestal, and other similar structures.
5. **Federal Aviation Administration.** FAA
6. **Federal Communication Commission.** FCC
7. **FTA.** Federal Telecommunications Act of 1996.
8. **Height.** When referring to a Wireless Communication Facility, Height shall mean the distance measured from ground level to the highest point on the Wireless Communication Facility, excluding the Antenna Array.
9. **Setback.** Setback shall mean the required distance from the property line of the parcel on which the Wireless Communication Facility is located to the base of the Support Structure and equipment shelter or cabinet where applicable, or in the case of guy-wire supports, the guy anchors.
10. **Support Structure.** A Support Structure is a structure designed and constructed specifically to support an Antenna Array. and may include a monopole, self supporting (lattice) tower, guy-wire-support tower, stealth structures and other similar structures. Any device (Attachment Device) which is used to attach an Attached Wireless Communication Facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.
11. **Temporary Wireless Communication Facility** (Temporary Wireless Communication Facility). Temporary Wireless Communication Facility shall mean a Wireless Communication Facility to be placed in use for ninety (90) or fewer day.
12. **Tower and/or Antenna Use Permit (TUP).** A permit issued by the City of Osceola specifically for the location, construction and use of a Wireless Communication Facility subject to an approved site plan and any special conditions determined by the CEO to be appropriate under the provision of this Ordinance.
13. **Wireless Communications.** Wireless Communications shall mean any personal



wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhances specialized Mobil radio (ESMR), paging, and similar serves that currently exist.

14. **Wireless Communication Facility (Wireless Communication Facility).** A Wireless Communication Facility is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cables, and Equipment Facility, and a Support Structure to achieve the necessary elevation. Ord. No. 2000-759.

#### **14.20.04 Designation and Applicability**

1. The City of Osceola shall be divided into two Wireless Communication Facility Zoning Overlay Districts. Said districts shall include all lands situated within the City of Osceola and all lands lying within its extraterritorial jurisdiction, if any.
2. Wireless Communication Facility Zoning Overlay District 1 shall include only those areas described in Appendix A hereto any area subsequently added thereto less any areas subsequently deleted therefrom. Attached Wireless Communication Facilities with support structures shall be permitted as provided herein in Wireless Communication Facility Zoning Overlay District 1.
3. Wireless Communication Facility Zoning Overlay District 2 shall consist of all lands not included in Wireless Communication Facility Zoning Overlay District 1 which are located within the City of Osceola or lying within its extraterritorial jurisdiction, if any. Attached Wireless Communication Facilities shall be permitted as specified herein in Wireless Communication Facility Zoning Overlay District 2. Wireless Communication Facilities with support structure shall not be permitted under this ordinance in Wireless Communication Facility Zoning Overlay District 2 except as specified in District 1 above.
4. Permit Required. No person, firm or cooperation shall install or construct any Wireless Communication Facility unless and until a Tower and/or Antenna Use Permit (TUP) has been issued pursuant to the requirements of this ordinance.
5. Pre-existing Wireless Communications Facility. Wireless Communications Facilities for which a permit has been issued prior to the effective date of this Ordinance shall be considered a non-conforming and shall be required to meet the requirements of this Ordinance.
6. Amateur Radio Exclusion. This Ordinance shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. Such installations shall comply with any other applicable provisions of the Zoning Code.
7. Relationship to Other Ordinances. This Ordinance shall supersede all conflicting requirements of other ordinance regarding the locating and permitting of Wireless Communication Facilities.
8. Airport Zoning. Any Wireless Communication Facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport

regulations.

9. Building Codes. Construction of all Wireless Communication Facilities shall comply with the requirements of the City of Osceola Building Codes and permitting processes in addition to the requirements of this Ordinance. Ord. No. 2000-759.

#### **14.20.05 Allowable Uses/Development Criteria**

Allowable uses, subject to the limitations within each Overlay District, will include the underlying zoning district plus Wireless Communication Facilities in compliance with the following development criteria:

- A. Height Standards. The following height standards shall apply to all Wireless Communication Facility installations:
  1. Attached Wireless Communication Facilities Attached Wireless Communication Facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached (Attachment Structure). However, antenna attachments to existing communication towers shall not increase the height of tower above the maximum permitted height of that tower.
  2. Wireless Communication Facilities with Support Structures shall have a maximum height as set out in Appendix A in Wireless Communication Facility Zoning Overlay District 1.
- A. Setback Standards. The following setback standards shall apply to all Wireless Communication Facility installations.
  1. Attached Wireless Communication Facilities Attached Wireless Communications Facilities shall meet the setback provisions of the zoning district in which three are located. However, an Attached Wireless Communication Facility Antenna Array may extend up to 30 inches horizontally beyond the edge of the Attachment Structure so long as the Antenna Array does not encroach upon an adjoining parcel.
  2. Wireless Communications Facilities with Monopole Support Structures. Wireless Communications Facilities with Monopole Support Structure shall meet the setback requirements for principle structures of the underlying zoning district in which they are located.
- B. Landscaping. The following landscaping requirements shall apply to all Wireless Communication Facility installations.
  1. New Construction. New Wireless Communications Facilities with Support Structures and Attached Wireless Communication Facilities with new building construction shall be landscaped in accordance with the applicable provisions of the landscape ordinance that may now or hereafter be adopted.
  2. Land Form Preservation. Existing mature tree growth and natural Land Form on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference to the antennas or inhibits access to the Equipment Facility may be trimmed or removed.
  3. Existing Vegetation. Existing vegetation on a Wireless Communication Facility site may be used in lieu of required landscaping where approved by

the COE.

- C. Aesthetics, Placement, Materials and Colors. Wireless Communications Facilities shall be designed so as to be compatible with the existing structures and surrounding to the extent feasible, including placement in a location which is consistent with proper functioning of the Wireless Communications Facility, the use of compatible or neutral colors or camouflage technology.
- D. Lighting and Signage. The following lighting and signage requirements shall apply to all Wireless Communications installations.
  - 1. Artificial Illumination Wireless Communications Facilities shall not be artificially illuminated, directly or indirectly, except for:
    - a. security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and
    - b. such illumination of the Wireless Communications Facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences.
    - c. Unless otherwise required by the FAA or other applicable authority, the required light shall be red and shielded upward.
  - 2. Signage Wireless Communications Facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing Wireless Communication Facilities.
- E. Fencing. Wireless Communications Facilities with Support Structures shall be enclosed by an opaque fence (excluding slatted chain link) not less than 6 feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of State or Federal agencies.
- F. Radio Frequency Emissions/Sound. The following radio frequency emissions standards shall apply to all Wireless Communications Facility installations:
  - 1. Radio Frequency Impact. The ETA gives the FCC jurisdiction of the regulation of Radio Frequency (RF) emissions, and Wireless Communications Facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
  - 2. FCC Compliance. In order provide information to its citizens, copies of ongoing FCC information concerning Wireless Communications Facilities and RF emissions standards may be requested by the City at any time. Applicants for Wireless Communications Facilities shall be required to provide information with the applications on the measurement of the effective radiated power of the facility and how this meets the FCC standards.
  - 3. Sound Prohibited. No unusual sound emissions such as alarms, bells buzzers or the like are permitted.
- G. Structural Integrity. Wireless Communications Facilities with Support Structures shall be constructed to the Electronics Industries

Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended. Each Support Structure shall be capable of supporting multiple antenna arrays.

- H. Collocation Agreement. All applicants for Wireless communication Facilities are required to submit a statement with the application agreeing to allow and reasonably market collocation opportunities to other Wireless Communications Facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The Collocation Agreement shall be considered a condition of issuance of a TUP. A TUP shall not be issued unless the applicant complies with the collocation policy outlined in Section VII of this ordinance. Ord. No. 2000-759.

#### **14.20.06 Review Process**

1. This Applicable Development Criteria referred to herein are those set forth in Section V of this Ordinance.
2. Permitting Procedures Attached Wireless Communications Facilities with or without new building construction that meet the Development Criteria may be permitted by Administrative Review in all zoning districts except as hereinafter specified. All Wireless Communications Facilities with Support Structures that meet the development criteria and that are located on properties and that are developed as specified in Wireless Communication Facility Overlay District 1 (listed in Appendix A,) may be permitted by Administrative Review except hereinafter specified. All others, regardless of type or location shall be subject to the Planning Commission public hearing process and may not be approved by the Administrative Review process.
3. Any Wireless Communications Facility (Attached or with a Support Structure), regardless of type, to be located within an established historic area, Historic District or other designated Overlay District will be subject to review by the appropriate District commission and the Planning commission. Review by a District commission shall be in accordance with that District Ordinance administrative procedures for a certificate of appropriateness. All Wireless Communications Facility applications that do not conform to the Development Criteria or are otherwise not eligible for Administrative Review shall be subject to the Planning commission public hearing process.
4. Wireless Communications Facilities as a part of a Coordinated Development Approval Wireless Communications Facilities as part of a proposed residential or nonresidential subdivisions, planned unit development, site plan, conditional rezoning, or other coordinated development approval shall be reviewed and approved through those processes.
5. Wireless Communications Facilities for Temporary Tenn. Temporary Wireless Communications Facilities may be permitted by Administrative Approval for a term not to exceed 90 days. Once granted, a temporary Wireless Communications Facility permit may be extended for an additional 90 days upon evidence of need by the applicant. In case if emergency

(e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the Administrative Review shall be expedited to the extent feasible. Ord. No. 2000-759.

#### **14.20.07 Approval Process**

- A. Application Submission All requests for a Tower and/or Antenna Use Permit, regardless of Wireless communication Facility type shall submit an application in accordance with the requirements of this section.
1. Application Contents. Each applicant requesting a TUP under this Ordinance shall submit a sealed complete set of drawing prepared by a licensed architect and engineer that will include she plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment's facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by the staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing wireless communication facility shall include a Radio Frequency Intermodulation Study with their application.
  2. Submission requirements. Application for a TUP shall be submitted to the City of Osceola on forms prescribed by the City of Osceola. The application shall be accompanied by a site plan containing the information described above and a copy of the appropriate FCC license. If the Planning Commission or District commission review is required, the application and site plan shall be placed on the next available Commission agenda in accordance with the agenda deadlines established by the City of Osceola.
  3. Application Fees. A plan review fee of \$500 and a Radio Frequency Intermodulation Study review fee of \$500 (collocation applicants only) shall accompany each application. These fees may be used by the city of Osceola to engage an engineer(s) or other qualified consultant(s) to review the technical aspect of the application and Radio Frequency Intermodulation Study (if required).
  4. Technical Assistant. In the course of its consideration of an application the City of Osceola, The Code Enforcement Officer, the Planning Commission or the City Council may deem it necessary, in Complex situations, to employ an engineer(2) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the City of Osceola in the technical aspects of the application. In such cases an additional reasonable costs incurred by the City or Osceola not to exceed fifteen hundred dollars (\$1,500) for the technical review and recommendation shall be reimbursed by the applicant prior to the final hearing on the TUP.
- B. Administrative Review The following administrative review process shall Apply to all wireless communications facility applications eligible for administrative

review.

1. Review Authority. Review of wireless communication facilities under this Section shall be conducted by the City's consultant and Code Enforcement Officer or his designee upon filing a wireless communication facility application.
  2. Review Criteria. Each application shall be reviewed for compliance with the Development Criteria specified in Section V.
  3. Timing of Decision. The Code Enforcement Officer shall render a decision on the wireless communication facility application by written response to the applicant within ten (10) business days after receipt of the complete application, except that an extension may be agreed upon by the applicant. Any application that is not reviewed within ten (10) business days shall be forwarded to the Planning Commission for review.
  4. Deferral The Code Enforcement Officer may defer administrative approval of wireless communication facilities for any reason. Deferral of Administrative approval shall require submission to the Planning Commission for review.
  5. Application Denial. If Administrative approval is not obtained or is denied due to noncompliance with Development Criteria, the applicant may appeal the denial by applying for Planning Commission Review.
  6. Application Approval. If the TOP application is in compliance with the Development Criteria and otherwise meets the requirements of this Section, the Code Enforcement Officer shall issue a Tower Use Permit.
- C. Planning Commission Review. The following shall apply to all Tower Use Permit applications requiring submission to the Planning Commission.
1. Review Authority. The Planning Commission shall be the review authority for TUP applications not eligible for Administrative Review or otherwise referred to the Commission.
  2. Notice. Notice of the application and the public hearing by the Planning Commission shall be accomplished in the same manner as a Special Use Permit under the Zoning Ordinance.
  3. Hearing. The Planning Commission shall review and consider the TUP application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The Planning Commission shall consider the following in reaching a decision.
    - a. Development Criteria. The Tower and/or Antenna Use Permit application shall be reviewed for compliance with the Development Criteria set forth in Section V; provided that the applicable Development Criteria may be amended or waived so long as the approval of the wireless communication facility meets the goals and purposes of the Ordinance. The Planning Commission may recommend and alternative development criteria by specific inclusion in a motion for approval.
    - b. Tower Siting Conditions The Planning Commission may impose conditions and restrictions on the application or on the premises

benefited by the TUP as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this Ordinance. The violation of any condition shall be grounds for revocation of the TUP. The Planning Commission may recommend such conditions in addition to the Development Criteria upon the following findings:

- i. The wireless communication facility would result in significant adverse visual impact on nearby residences.
    - ii. The conditions are based upon the purpose and goals of this Ordinance.
    - iii. The conditions are reasonable and capable of being accomplished.
  - c. Action Following the public hearing and presentation of evidence, the Planning Commission shall take one of the following actions:
    - i. Recommend the application as submitted;
    - ii. Recommend the application with conditions or modifications;
    - iii. Defer the application for additional information or neighborhood input; or
    - iv. Deny the application in writing.
4. Findings All decisions rendered by the Planning Commission concerning a Tower Use Permit shall be supported by written finding of fact and conclusions of law based upon substantial evidence of record.
5. Timing of Decision. The Planning Commission shall render its decision within 60 days or less of the final submission of all required application documents and technical review, however, this time may be increased due to deferrals by either the applicant or the Planning Commission.
6. Appeals. The decision of the Planning Commission may be appealed to the City Council under the following circumstances:
  - d. An appeal shall be filed no later than 30 days after the final action by the Code Enforcement Officer or the Planning Commission. Only the applicant and those who registered an objection to the TUP in the record of the Planning Commission shall have standing to appeal.
  - e. Only such evidence or testimony in support of or opposition to the issuance of the TUP which was provided to the Planning Commission may be presented to the City Council unless the City Council, by majority vote, decides to hear new information.
  - f. Notice of appeal shall be accomplished by the appellant in the same manner as a Special Use Permit under the Zoning Code. Ord. No. 2000-759.

#### **14.20.08 Shared Facilities And Collocation Policy**

1. Collocation. All new wireless communication facilities shall be engineered, designed and constructed to be capable. of sharing the facility with other providers, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A TUP shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its Wireless Communication Facility onto a existing structure. Competitive conflict and financial burden are deemed to be adequate reasons against collocation.
2. All Wireless Communication Facilities with support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least three (3) antenna array. All Wireless Communication Facilities with support structures up to a height of more than 190 feet shall be engineered and constructed to accommodate at least four (4) antenna array. Ord. No. 2000-759.

#### **14.20.09 Removal of Abandoned Wireless Communication Facilities**

Any wireless communication facility that is not operated for continuous period of twelve (12) months shall be considered abandoned, and the City of Osceola, at its election, may require the wireless communication facility owner to remove the wireless communication facility within 90 days after notice from the City of Osceola to remove the wireless communication facility. If the abandoned wireless communication facility is not removed within 90 days, the City of Osceola may remove it and recover its cost from the wireless communication facility owner. If there are two or more users of a single wireless communication facility, this provision shall not become effective until all providers cease to use the wireless communication facility. If the owner of an abandoned wireless communication facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the wireless communication facility is located. Ord. No. 2000-759.

#### **14.20.10 Nonconforming Wireless Communications Facilities**

Wireless Communication Facilities in existence on the date of the adoption of this Ordinance which do not comply with the requirements of this Ordinance (nonconforming wireless communications facility) are subject to the following provisions:

- A. Expansion. Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without complying with this Ordinance except as further provided in this Section.
- B. Additions. Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to Administrative Review under this Ordinance.
- C. Repairs or Reconstruction. Nonconforming wireless communications facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location and physical dimensions subject to the provisions of this Ordinance. Provided, however, that if the damage to the wireless communication facility exceeds 50% of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this ordinance.



- D. Any nonconforming wireless communications facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease. Ord. No. 2000-759.

#### **14.20.11 Revocation of Tower Use Permits**

Any Tower Use Permit issued pursuant to this Ordinance may be revoked after a hearing provided hereinafter. If the Code Enforcement Officer finds that any permit holder has violated any provisions of the Ordinance, or has failed to make good faith reasonable efforts to provide or seek collocation, the Code Enforcement Officer shall notify the permit holder in writing that the TUP is revocable due to the permit holder's noncompliance with the conditions of the permit and the Code Enforcement Officer shall convene a meeting with the permit holder no later than 30 days from the date of the letter. The Code Enforcement Officer may require the permit holder to correct the violation within a reasonable amount of time or the Code Enforcement Officer may recommend to the City Council that the Tower Use Permit be revoked, After the appropriate public hearing, the Mayor and City Council may revoke the TUP upon such terms and conditions, if any, that the Mayor and City Council may determine. Prior to initiation of revocation proceedings the City of Osceola shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the City of Osceola with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Mayor and City Council shall convene a public hearing to consider revocation of the Tower Use Permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation within the City of Osceola not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The Mayor and City Council may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the requesting party at that party's expense. Ord. No. 2000-759.

#### **14.20.12 Penalty**

The fine or penalty for violating any provisions of this Ordinance shall, upon conviction in the municipal court, not exceed one thousand dollars (\$1 ,000.00) for any one specified offense or violation further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of this Ordinance shall not exceed one thousand dollars (\$1 ,000.00) for each day that it may be unlawfully continued. Ord. No. 2000-759.

#### **14.20.13 Annual Review**

The Mayor and City Council shall review this ordinance on an annual basis and shall alter or amend the same as required in the manner provided by law. Ord. No. 2000-759.

### **APPENDIX A**

The City of Osceola, Arkansas  
Wireless Communication Facility Zoning Overlay District 1

| <b>Property Name</b>        | <b>Address</b>     | <b>Tower Type</b> | <b># Users</b> | <b>Height</b> |
|-----------------------------|--------------------|-------------------|----------------|---------------|
| Hospital                    | W. Lee             | Monopole          | 4              | 190 feet      |
| Elementary Schools (3)      |                    | Monopole          | 3              | 150 feet      |
| Middle School               | 112 N. School      | Monopole          | 3              | 150 feet      |
| Junior High School          | W. Lee             | Monopole          | 3              | 150 feet      |
| High School                 | W. Semmes          | Monopole          | 4              | 190 feet      |
| Riverlawn Country Club      | Country Club Rd.   | Monopole          | 3              | 150 feet      |
| Cable Tower Prop.           | Frontage Rd.       | Monopole          | 4              | 190 feet      |
| Water Plant                 | 118 Semmes         | Monopole          | 4              | 190 feet      |
| Pole Yard                   | RR at Semmes       | Monopole          | 4              | 190 feet      |
| City Shop/Electric          | Semmes Street      | Monopole          | 4              | 190 feet      |
| Well #6/Park/Headstart      | Walnut at Williams | Monopole          | 4              | 190 feet      |
| City Building and 4 ac      | Parsons Street     | Monopole          | 4              | 190 feet      |
| Fire Station #1             | Semmes at Pecan    | Monopole          | 3              | 150 feet      |
| Osceola Justice Center      | Keiser             | Monopole          | 3              | 150 feet      |
| Fire Station #2/Water Tower | Ermen Lane         | Attachments       |                |               |
| Phillips Lift Station       | Keiser             | Monopole          | 3              | 150 feet      |
| Airport                     | Airport Road       | Monopole          | 3              | 150 feet      |
| Water Tower #2              | Semmes near Quinn  | Attachments       |                |               |
| Country Club Lift Station   | Country Club Rd.   | Monopole          | 4              | 190 feet      |
| Community Center            | Highway 119Y       | Monopole          | 4              | 190 feet      |
| Cherry Drive Substation     | Semmes at Cherry   | Monopole          | 4              | 190 feet      |
| Compost Lot                 | Cyro Road          | Guyed             | ?              | 300 feet      |
| Ord. No. 2000-759.          |                    |                   |                |               |

## **TITLE 15**

### **SUBDIVISION REGULATIONS**

#### Chapters:

15.04 Subdivision Regulations

#### **Chapter 15.04**

#### **Subdivision Regulations**

#### Sections:

15.04.01 Subdivision Standards Adopted  
15.04.02 Amendments

##### **15.04.01 Subdivision Standards Adopted**

Subdivision standards for Osceola, Arkansas, prepared by Treaford Engineering Associates dated August 1, 1979, of which not less than three (3) copies have been and are now filed in the Office of the City Clerk of the City Hall, Osceola, Arkansas, be and the same are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the development, procedural requirements, improvements, layout and regulation, all subdivisions and developments within the area of jurisdiction of the City of Osceola, Arkansas. Ord. No. 1979-521.

##### **15.04.02 Amendments**

#### Ord. No. 1991-644

That Chapter IV, entitled "General Improvements Requirements", of the Subdivisions Standards for Osceola, Arkansas, adopted on August 1, 1979, by ordinance No. 1979-521, be and the same is hereby amended to include "Subdivision Construction Requirements" as set forth on Exhibit "A" attached hereto and incorporated herein by reference as if set forth herein word for word, which shall, upon adoption of this Ordinance, be and become a part of the Subdivision Standards for Osceola, Arkansas.

#### Ord. No. 1991-647

That Chapter IV, entitled "General Improvements Requirements", of the Subdivisions Standards for Osceola, Arkansas, adopted on August 1, 1979, as amended, by ordinance No. 1979-521, be and the same is hereby amended to delete in its entirety Section 7 of Chapter IV, which Section is entitled "Guarantee of Work".

Ord. No. 1992-656

That Chapter IV, entitled "General Improvement Requirements", of the Subdivision Standards for Osceola, Arkansas, adopted on June 14, 1982, by Ordinance No. 1982-563, be and the same is hereby amended to include "Subdivisions Construction Requirements" as set forth on Exhibit "A" attached hereto and incorporated herein by reference as if set forth herein word for word, which shall, upon adoption of this Ordinance, be and become a part of this Subdivision Standard for Osceola, Arkansas.

Ord. No. 1999-749

1. For purposes of this ordinance, a mobile structure shall be defined as follows:
  - a. Designed for long-term occupancy, as either a home or office or other use, with plumbing and electrical connections provided for attachment to outside systems.
  - b. Designed to be transported after fabrication on its own wheels, flat bed, other trailers, or detachable wheels.
  - c. Arrives at the site where it is to be occupied as a home or office or other use ready for occupancy or use except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.
2. The placement or use of mobile structures is prohibited in the City of Osceola, Arkansas in all areas except in duly approved mobile home parks, which are located in R-3 high density residential districts. Therefore, no mobile structures are allowed in areas in the City, which are zoned as agricultural district, low density residential district, medium density residential district, central business district, commercial business district, general commercial district, neighborhood commercial district or industrial district.

Ord. No. 2000-756

That the Subdivision Regulations as prepared by the Osceola Planning Commission and assisted by the Planning Division of the East Arkansas Planning and Development District, and as approved by resolution of the Osceola Planning Commission on May 2, 2000 is hereby adopted and made a part of this ordinance as if herein written, a copy of which *is* on file in the office of the City Clerk, 316 W. Hale Avenue, and is available for public inspection during office hours .

Ord. No. 2001-766

1. The Osceola Subdivision Regulations be amended as recommended by the Osceola Planning Commission, said amendment being the addition of the following subsection 1.04.02;
2. Any conveyance or conveyances, including the transfer of like kind exchange of any lot, parcel, tract, lot of record, fractional lot conveyance or isolated conveyance, either directly or indirectly involved in the assemblage and aggregation of property for a single manufacturing or industrial use, including the generation of electricity.

Ord. No. 2011-894

1. Thus the Osceola Zoning Regulations is supplemented and amended as set forth herein.
2. Amend Section 12.05.0. Prohibited Signs by adding number seven (7) and adding text:
3. Billboards. Billboards are prohibited in the corporate city limits of Osceola."
4. Amend 12.06.01. by changing title from "'Structures generally" to "Billboard Placement"

and by changing text from Billboard or outdoor advertising structures and other freestanding signs as defined in Article II may be permitted in Highway Commercial (C-3), Industrial (I) districts or within the limitations defined at section 12.08.0.. Single-Family Low Density Residential (R-1) districts to "Billboards will not be allowed within the corporate city limits of Osceola, Arkansas. All existing billboards or those billboards under contract prior to the adoption of this ordinance are grand-fathered within the city limits of Osceola."

5. Amend sections 12.06.02 through 12.06.06 by deleting.
6. Amend section 12.09.0 by deleting bullet number eight (8) and sub bullets a, b, c, and d.
7. Amend Section 12.10.02 by deleting bullet number four (4).
8. Amend section 14.02.02 bullet number four (4) by changing text from "The presence or three (3) members of the Board shall constitute a quorum. The concurring vote of three (3) Board members shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under the regulations, or to authorize a variance from the requirements of these regulations" to "The presence of six (6) members of the Board shall constitute a quorum. The concurring vote of six (6) Board members shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under the regulations, or to authorize a variance from the requirements of these regulations"
9. Amend Section 14.02.02 bullet number six (6) by changing text from "Any member of the Board who fails to be in attendance at two (2) consecutive scheduled meeting shall have his appointment declared vacant; and a new member shall be selected as provided above in section 14.0 1.0. The Secretary shall promptly notify the Mayor of any such vacancy" to "If any member misses three (3) consecutive meetings (regular and/or called) as a result of unexcused absences, the Board may, at its discretion, declare that position vacant and request the Mayor and City Council to appoint a new member to fill the unexpired term of the vacated position."