

OFFENSES AND CRIMES

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CHAPTER 1

OFFENSES IN GENERAL

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SECTION 10-101 ATTEMPTS TO COMMIT AN OFFENSE.

Every person who attempts to commit an offense against the ordinances of the town, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense, and shall be punished in the manner prescribed for the attempted offense itself.

SECTION 10-102 AIDING IN AN OFFENSE.

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or misdemeanor, and punishable in the same manner as the principal offender.

SECTION 10-103 ADOPTION OF STATE CRIMINAL CODE.

The provisions of the state criminal code, Title 21 of the Oklahoma statutes as amended, are hereby adopted and incorporated herein by reference, and are enforceable by the town within the town limits as fully as if set out at length herein. (Added 1991)

CHAPTER 2

OFFENSES AGAINST PROPERTY

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SECTION 10-201 PETIT LARCENY PROHIBITED.

A. Petit larceny is the taking of personal property of value not exceeding Fifty Dollars (\$50.00) accomplished by fraud or stealth and with intent to deprive another thereof, but it does not include the taking of such property from the "person" of another.

B. Petit larceny is unlawful, and any person who commits larceny shall be guilty of a misdemeanor.

State Law Reference: Petit larceny defined, 21 O.S. Sections 1704, 1706.

SECTION 10-202 INJURING AUTOMOBILES AND OTHER VEHICLES.

It is unlawful for any person to start, otherwise meddle with, molest, enter, occupy, loiter in, or injure any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.

SECTION 10-203 DESTROYING OR INJURING BUILDINGS AND OTHER PROPERTY.

It is unlawful for any person to destroy, injure, deface, besmear, or molest any structure, building, outbuilding, fence, or any other property, real or personal, public or private, belonging to another; or to use any such property wrongfully to the detriment of

the owner or other person entitled to its use; or to interfere wrongfully with the use of any such property by its owner or any other person entitled to its use.

SECTION 10-204 PLACING SIGNS ON PROPERTY OF ANOTHER.

It is unlawful for any person to place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill placard, device or inscription upon any public or private building, fence, sidewalk, bridge, viaduct, post, automobile, other vehicle or other property of another, without the consent of the owner or person in charge thereof.

SECTION 10-205 THROWING OR SHOOTING AT PERSONS OR PROPERTY.

It is unlawful for any person to throw or shoot any stone, shot or other object into or across any street or alley, or in any place where he is likely to hit another person wrongfully or to injure property, or to throw or shoot any stone, shot or other object at any person, vehicle, structure, electric light or other property of another (whether public or private), except in case where such is done in defense of oneself, of another person or of property.

SECTION 10-206 TAMPERING WITH OR DAMAGING PUBLIC UTILITIES.

It is unlawful for any person to connect or attach any kind of pipe, wire or other contrivance to any pipe, line, wire or other conductor carrying gas, water or electricity and belonging to a public utility (whether publicly or privately owned), in such a manner as to enable him to consume or use the gas, water or electricity without it passing through the meter or any other way so as to evade payment therefore. It is also unlawful for any person to damage, molest, tamper with, or destroy any pipe, line, wire, meter, or other part of any public utility, including any telegraph or telephone system.

SECTION 10-207 UNLAWFUL INTRUSION UPON LAND.

It is unlawful for any person to intrude or squat upon any lot or piece of land within the town without a license or authority from the owner thereof, or to erect or occupy thereon any hut, hovel, shanty or other structure without such license or authority, or to place, erect or occupy within the bounds of any street, alley or avenue of the town, any hut, shanty, hovel, or other structure without authority of law or ordinance.

SECTION 10-208 ILLEGAL ENTRANCE.

It is illegal for any person to enter upon the property of another or into an area or structure on such property (whether such property, area or structure is public or private), when such entrance is plainly forbidden by signs or any notice or when the property, area

or structure is enclosed, except when such entrance is in line of duty, or with the expressed, or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance. It is unlawful for any person to remain on the property of another after having been given notice, written or verbal, to leave by the owner or person in charge.

Cross Reference: See also trespass, Section 10-213 of this code.

SECTION 10-209 THROWING ADVERTISING ON STREET, PROHIBITED.

It is unlawful for any person to throw, leave or deposit, or cause to be thrown, left or deposited, upon any street, alley, sidewalk, or other public area, any handbill, circular, or other advertising matter.

Cross Reference: For provision prohibiting placing signs on property of another without consent, etc., see Section 10-204 of this code.

SECTION 10-210 THROWING INJURIOUS SUBSTANCES.

It is unlawful for any person to purposely or premeditatedly put or throw upon the person or property of another, or upon any animal, any acid, corrosive or other irritating or harmful substance, or human or animal waste or urine, with intent to injure or harass the person, property or animal.

SECTION 10-211 INJURY TO PLANTS AND TREES.

It is unlawful for any person to willfully and without authority cut, pull, pluck or otherwise injure any flowers, flowering plants, shrubs or trees growing in or around any park or public street within the town, or willfully or without authority to tear down, remove, cut or otherwise injure or destroy any gate or fence enclosing any such park or ground, or willfully injure or destroy any stand, bench, seat or other property situated upon such park or ground, any person violating this section, upon conviction, shall be deemed guilty of an offense.

SECTION 10-212 PUBLIC STREETS AND TREES.

It is unlawful for any person to:

1. Willfully or wantonly cut, deface or in any way injure any tree or sapling standing or growing in any of the streets, alleys or public places within the town;
2. Attach any guy wires, telephone, telegraph, or electric wire, or any wire to any live tree;

3. Dig any hole, ditch or trench in any public street, road, avenue or alley, or any other public premises or ground within, belonging to or under the supervision or control of the town;

4. Take or remove any dirt, earth or any substance from any street, road, alley or other public place in the town; or to cut, break or otherwise injure any pavement, curb or gutter therein; or

5. Connect any driveway to any street or other public place without first securing permission from the town inspector so to do.

Any such digging, removing, or driveway connection shall be done under the supervision of the street superintendent or town engineer.

SECTION 10-213 TRESPASS PROHIBITED.

A. For the purpose of this section, the following terms shall be defined as follows:

1. "Public property" means that property which is dedicated to public use and over which the federal, state or municipal government or any subdivision thereof exercises control;

2. "Private property" means any property other than public property; and

3. "Trespass" means each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful possession. Trespass shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or the agent, or employee of the owner, or other person in lawful possession of the premises. Trespass shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer. The provisions of this paragraph shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises nor shall the provisions of this sentence apply unless hours of business operations are posted upon such premises. Trespass shall also be defined as the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

B. It is unlawful for any person to trespass on private property.

Cross Reference: For provisions on illegal entrance, see Section 10-208 of this code.

SECTION 10-214 PARKING ON PROPERTY OF ANOTHER.

It is unlawful for any person to park an automobile or other vehicle, or to place any structure or object on the driveway, yard, or property of another without the expressed or tacit consent of the owner or person in charge or by authority of law or ordinance.

SECTION 10-215 INTERFERENCE WITH FIRE HYDRANTS.

A. It is unlawful for any person except one duly authorized by the town utility personnel or a member of the fire department to open, turn on or off, interfere with, attach any pipe or hose to, or connect anything with, any fire hydrant or stop cock belonging to the town.

B. It is unlawful for any person to obstruct access to any fire hydrant by placing around or thereon brick, lumber, dirt or other thing, or in any other manner obstructing access to a fire hydrant.

Chapter 3

OFFENSES AGAINST THE PUBLIC

Section 10-301	Disturbing the peace.
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Section 10-304	Storing or keeping explosives.
Section 10-305	Carrying weapons; exceptions.
Section 10-306	Reckless conduct.
Section 10-307	Discharging firearms; exceptions.
Section 10-308	Loud noise or music prohibited; amplified sound.

SECTION 10-301 DISTURBING THE PEACE.

A It is unlawful to disturb or alarm the peace of another or others by doing any of the acts set out in Subsection B of this section.

B. Disturbing the peace is the doing of any of the following in such a manner as would foreseeably alarm or disturb the peace of another or others:

1. Using obscene, offensive, abusive, profane, vulgar, threatening, violent or insulting language or conduct;
2. Appearing in an intoxicated condition;
3. Engaging in a fistic encounter;
4. Lewdly exposing one's person, or private parts thereof, in any public place or in any place where there are present other persons to be offended or annoyed thereby;
5. Pointing any pistol or any other deadly weapon whether loaded or not at any other person or person either in anger or otherwise;
6. Holding an unlawful assembly of two (2) or more persons, including being assembled together and acting in concert, to do any unlawful act against the peace or to the terror of others or preparing for or moving toward such acts, or otherwise assembling unlawfully or riotously;
7. Interrupting any lawful assembly of people by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof;

8. Making unnecessarily loud, offensive noises;
9. Disturbing any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of worship or within hearing distance thereof; or
10. Committing any other act in such a manner as to unreasonably disturb or alarm the public.

SECTION 10-302 INSULTING SIGNS: LITERATURE OR LANGUAGE.

A It is unlawful for any person, firm or corporation within the town to display any sign, emblem, badge, flag or device, which in its common acceptance is insulting, profane, or abusive to the citizens of the town, and which is calculated, or of which the natural consequence is, to cause a breach of the peace or an assault.

B. It is unlawful for any person to willfully use, utter, publish, circulate or distribute any profane, violent, abusive, or insulting language or literature where:

1. A natural consequence of the language or literature is to cause a breach of the peace or an assault; or

2. The language or literature, in its common acceptance, is calculated to cause a breach of the peace or an assault.

SECTION 10-303 FIREWORKS REGULATED.

The purchase, sale, offering for sale, giving away, use, discharge, shooting, setting off, exploding, detonating or possession of fireworks within the corporate limits of the town is hereby prohibited, except as provided herein, to wit:

1. The retail sale of Class C fireworks (as same as defined by Section 1622(a) (1) of Title 68 of the Oklahoma Statutes) shall be permitted in those areas of the town to either side of Highway 51-B;

2. The sale of fireworks shall be made from a free-standing structure which in all cases shall be located no less than one hundred (100) feet from any structure owned by a third party. The structure shall be II rigid structure, the sale of fireworks from tents or nonrigid structures being expressly forbidden;

3. A sales clerk must be on duty to serve the consumer at the time of purchase. All fireworks offered for retail sale must be protected from direct contact and handling by the public at all times. Entry within those structures aforementioned shall be forbidden to the public.

4. Such sales shall not be made before June 15 or after July 6 of each year. Hours of permitted sale shall be from 8:00 a.m. to 12:00 midnight each day during which sales are permitted.

5. The retail license holder, as set out below, shall be at least eighteen (18) years of age;

6. The following license fee shall be due and payable on or before June 5 of each year beginning June 5, 1994, to the town. Any such person operating a retail location where fireworks are sold as permitted herein shall be required to purchase a retail fireworks license. The retail license fee shall be in the amount set by the town and may be purchased from the town clerk. Upon application for the license, applicant shall provide the town clerk with the location of the retail outlet, proof of age of applicant, evidence of all licenses required under state law and an affidavit signed by the applicant stating that he has read this section, will comply with same, will comply with all applicable state and federal laws and regulations pertaining to the sale of fireworks and will comply with such regulations as the town shall reasonably require for the protection and benefit of the general public; and

7. Failure to comply with the foregoing provisions or violation thereof shall constitute a criminal offense against the town and is punishable as provided by ordinance. Each separate day the provisions are violated shall constitute a separate and distinct offense. (Amended 1993)

8. Persons within the city limits may use or discharge permissible fireworks from 9:00 o'clock a.m. to 10:00 o'clock p.m. each day fireworks are permissible, except on July 4th, fireworks may be discharged from 9:00 o'clock a.m. until 12:00 o'clock a.m. Discharge of fireworks is permissible from June 15th, each year to July 5th, each year, or as may be otherwise set by the Mayor or his designee as follows:

a. Fireworks must be discharged on a noncombustible surface of sufficient size to contain the entire ground portion of the display and not closer than 25 feet to any permanent structure.

b. Persons discharging fireworks are responsible for the cleanup of debris caused by the discharging of fireworks.

c. Private persons may not use or discharge fireworks within any city park, nor on any state highway or street that is in excess of 26 feet wide.

d. No fireworks may be discharged during a burn ban as declared by State of County Authority.

State Law Reference: Bottle rockets prohibited by state law, 68 O.S. Section 1624; state fireworks licenses required, 68 O.S. Sections 1621 et seq.

Cross Reference: Fire Prevention Code, Section 3-101.

Ed. Note: Annual retail license fee is \$10.00 as set in 1993.

SECTION 10-304 STORING OR KEEPING EXPLOSIVES.

It is unlawful for any person to store or keep within the town any nitroglycerin, dynamite, gunpowder, or any other highly explosive material or substance of any kind without having first complied with the laws of the state for the purpose of selling, storing or keeping such items.

SECTION 10-305 CARRYING WEAPONS EXCEPTIONS

It is unlawful for any person to carry concealed upon or about his person any pistol, revolver, dagger, bowie knife, dirk knife, switch-blade knife, spring-type knife, metal knuckle, or any other dangerous or deadly weapon or instrument except when doing so in line of duty or as may be permitted by law.

State Law Reference: State Firearms Act, 21 O.S. Sections 1289.1 et seq.

SECTION 10-306 RECKLESS CONDUCT.

It is unlawful for any person to engage in reckless conduct while having in his possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another person.

SECTION 10-307 DISCHARGING FIREARMS: EXCEPTIONS.

No person shall discharge any species of firearm, in the town except when doing so in the line of duty, when lawfully doing so in defense of oneself, of another person, or of property, or when otherwise authorized by law or ordinance. It is unlawful to discharge an air rifle or BB gun in the town.

Cross Reference: See also Section 10-205 for provisions on throwing or shooting at persons or property

SECTION 10-308 LOUD NOISE OR MUSIC PROHIBITED: AMPLIFIED SOUND

It is unlawful for any person to disturb the peace and quietude of any part of the town by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, any motor vehicle, or any other device, with or without a loud speaker, in such a manner as to emit loud music, noise or words. However, this section shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

CHAPTER 4

OFFENSES AGAINST THE HEALTH, WELFARE AND MORALS

Section 10-401	Public intoxication and drinking prohibited.
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Section 10-420	Swindling unlawful.
Section 10-421	Smoking tobacco and vapor products prohibited.
Section 10-422	Furnishing tobacco products to minors.
Section 10-423	Purchase, receipt or possession of tobacco products by minors.
Section 10-424	Display of tobacco products age restriction signage.
Section 10-425	Public access to tobacco products.
Section 10-426	Tobacco paraphernalia.

SECTION 10-401 PUBLIC INTOXICATION AND DRINKING PROHIBITED.

A. It is unlawful for any person to appear or be upon or in any street, alley, or other public place in the town in a state of intoxication. It is unlawful for any person to drink intoxicating or non-intoxicating liquor or beverage, as defined by Section 163.1 of Title 37 of the Oklahoma Statutes, upon or in any street, alley, or other public place within the town. It is unlawful to use, sell or furnish to another any illegal drug or narcotic in any place in the town except as legally prescribed by a physician.

B. For the purpose of this section, state of intoxication means the condition in which a person is under the influence of any intoxicating, non-intoxicating, spirituous, vinous or malt liquors, or of any narcotic or drug, to such extent as to deprive the person of his or her full physical or mental power, or in which a person is a danger to himself or others.

SECTION 10-402 POSSESSION: TRANSPORTATION OF INTOXICATING AND NON-INTOXICATING BEVERAGES.

A. It is unlawful for any person under the age of twenty-one (21) years to be in possession of any intoxicating or non-intoxicating alcoholic beverage while such person is upon any public street, road or highway or in any public place within the town limits.

B. It is unlawful for any parent or guardian of a person under the age of twenty-one (21) years to permit such person to be in possession of an intoxicating alcoholic beverage.

C. It is unlawful for any person to knowingly transport in any moving vehicle upon a public highway, street or alley any intoxicating or non-intoxicating beverage except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed unless the opened container be in the rear trunk or rear compartment. The rear trunk or compartment shall include the spare tire compartment in a station wagon or panel truck or any outside compartment which is not accessible to the driver or any, other person in the vehicle while it is in motion.

D. For the purpose of this section "intoxicating beverage" and "non-intoxicating" beverage" shall be as defined in Sections 3-101 and 3-201 et seq. of this code.

SECTION 10-403 INTOXICATING LIQUORS.

1. For any person to barter, sell, give away or otherwise furnish to another any intoxicating or non-intoxicating liquor or beverage of any kind except as permitted by law;

2. To have in possession or under control any intoxicating or non-intoxicating liquor or beverage except as permitted by law, or to transport or in any manner convey from place to place in the town any intoxicating or non-intoxicating liquor or beverage except as permitted by law;

3. To loiter in a place where intoxicating or non-intoxicating liquor is sold, bartered, given away or otherwise furnished contrary to law.

4. To keep, maintain, aid or abet in keeping or maintaining a place where intoxicating or non-intoxicating liquor is sold, bartered, given away or otherwise furnished in violation of law.

SECTION 10-404 MARIJUANA PROHIBITED.

It is unlawful for any person knowingly to:

1. Manufacture, grow, harvest, cultivate, propagate, plant, compound, convert, produce, process, test, pack, repack, store, distribute, dispense or possess with intent to manufacture, distribute or dispense marijuana;
2. Use, have, inject, ingest, inhale, otherwise introduce into the human body or possess marijuana;
3. Use or possess drug paraphernalia or to deliver, possess or manufacture any such paraphernalia singly or in conjunction with any other person; or
4. Appear or be upon or in any street, alley, place of business or other public place in the town while under the influence of a controlled dangerous substance or marijuana;

B. For the purpose of this section, "marijuana" shall have the meaning prescribed by Section 2-101 of Title 63 of the Oklahoma Statutes. "Drug paraphernalia" shall have the meaning prescribed, by Section 2-101 of Title 63 of the Oklahoma Statutes, including the factors to determine in Section 2-101.1 of Title 63.

C. This section shall not apply to any marijuana lawfully obtained or authorized by valid prescription order from a licensed physician while acting in the course of his professional practice.

SECTION 10-405 PROSTITUTION.

A. It is unlawful for any person to :

1. Be a prostitute;
2. Solicit, entice, or procure another to commit or engage in any act of prostitution;
3. Engage in any act of prostitution;
4. Knowingly let premises for purpose of prostitution;
5. Conduct a business or premises for prostitution; or
6. Be a party to an act of prostitution or solicitation of prostitution in the limits of town.

B. For the purposes of this section:

1. Prostitution is the giving of the body for sexual intercourse or sodomy hire or money;
2. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or transporting of a person to any place with the intention of promoting prostitution; and
3. Letting premises for prostitution is the granting of the right of use or the leasing of any premises, knowing that they are to be used for the practice of prostitution, or allowing the continued use of the premises with that knowledge.

SECTION 10-406 DISORDERLY HOUSE.

A disorderly house means any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute;
2. The violation of any of the ordinances of this town or statutes of this state regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one percent (.5%) alcohol by volume;
3. The performance of any sexual act declared unlawful by state statute or town ordinance including, but not limited to, soliciting for purposes of prostitution; or
4. The violation of any state statute or town ordinance prohibiting gambling.

SECTION 10-407 MAINTAINING OR LEASING A DISORDERLY HOUSE.

A. No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

B. No owner, lessee, lessor, or other person, partnership or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sub-lease or otherwise permit the use of same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house, no persons, partnership or corporation shall continue to grant permission to so use such premises as a disorderly house.

SECTION 10-408

RESIDENTS AND VISITORS TO DISORDERLY HOUSE.

No person shall knowingly reside in, enter into, or remain in a disorderly house. In any prosecution for violation of this section, the town shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This section shall not apply to physicians or officers in the discharge of their professional or official duties.

SECTION 10-409

NUDITY; IMPROPER DRESS; INDECENT EXPOSURE.

It is unlawful for any person to:

1. Appear in any public place in the town in a state of nudity;
2. Appear in any public place in the town in any offensive, indecent or lewd dress; or
3. Make an indecent public exposure of his or her person.

SECTION 10-410

DEFINITIONS; OBSCENITY REGULATIONS.

The following terms when used in the chapter shall have the meaning respectively ascribed to them in this section:

1. "Obscene" means that to the average person applying contemporary community standards:
 - a. The predominant appeal of the matter taken as a whole, is to, prurient interest; i.e.; shameful or morbid interest in sexual conduct, nudity, or excretion;
 - b. The matter depicts or describes in a patently offensive manner sexual conduct regulated by Title 21 of the Oklahoma Statutes: and.
 - c. The work, taken as a whole, lacks serious literary, artistic, political or scientific value;
2. "Material" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines;
3. "Person" means any individual, partnership, firm, association, corporation or other legal entity;

4. "Disseminate" means to transfer possession of, with or without consideration;
5. "Knowingly" means being aware of the character and the content of the material;
6. "Nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernible turgid state;
7. "Performance" means any preview, play, show, skit, film, dance or other exhibition performed before an audience;
8. "Available to the public" means that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for separate fee for each item or performance;
9. "Service to patrons" means the provision of services to paying guests in establishments providing food and beverages; including but not limited to hostessing, hat checking, cooking, bar tending, serving, table setting and clearing, waiter and waitressing, entertaining; and
10. "Promote" means to cause, permit, procure, counselor assist.

SECTION 10-411 PROHIBITED OBSCENE CONDUCT.

A It is unlawful for any person to:

1. Knowingly disseminate, sell, offer for sale, publish, display, distribute, make available to the public or buy any obscene material; or
2. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or exhibition utilizing displays, circulars, advertisements and other public sales effects that promote such commerce primarily on the basis of their prurient appeal; or
3. Knowingly engage or participate in any obscene performance made available to the public; or
4. Provide service to patrons in such a manner as to expose to public view:
 - a. His or her genitals, public hair, buttocks, perineum, anal region or public hair region;

b. Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

c. Any portion of the female breast at or below the areola thereof; or

d. Knowingly promote the commission of any of the above listed unlawful acts.

B. Each complete or partial display or other material exhibition of any motion picture film or other material shall be deemed to constitute a separate offense. The provisions of Sections 10-410 and 10-411 shall not apply to a projectionist, assistant projectionist, usher or cashier provided such person has no financial interest in the motion picture theatre so long as that person is not acting as director or manager of the theatre.

SECTION 10-412 VAGRANCY DEFINED FOR SPECIFIC ACTS, OFFENSES.

It is unlawful to be a vagrant in the limits of the town. For the purposes of this section, a vagrant means any person who loiters or remains in or wanders about, a public or private place for any of the following purposes:

1. For the purpose of gambling with cards, dice or other gambling paraphernalia;

2. For the purpose of engaging in prostitution or soliciting prostitution or soliciting for an act of lewdness;

3. For the purpose of engaging in theft, or breaking and entering any building, property or automobile of another;

4. For the purpose of injuring, destroying, molesting or defacing any property of another;

5. For the purpose of assaulting any person;

6. For the purpose of begging or soliciting alms, provided that this section shall not apply to persons soliciting alms for bona fide religious, charitable or eleemosynary organizations with the authorization of such organizations; or

7. For the purpose of selling, purchasing, trading or otherwise exchanging, procuring or making available illegal drugs or contraband.

SECTION 10-413 CURFEW FOR CHILDREN

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

1. "Minor" is any person under the age of sixteen (16);
2. "Parent" is the natural or adoptive parent of a minor;
3. "Gardian" is any person or other than a parent who has legal guardianship of a minor;
4. "Custodian" is any person over the age of twenty-one (21) years who loco parentis to a minor; and

5. Public place means any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

B. It is unlawful for any minor to remain, wander, stroll or play in any public place on foot or to cruise about without a set destination in any vehicle in. about or upon any public place in the town between the hours of 10:00 P.M and 6:00 A.M. Monday through Friday and between the hours of 12:00 A.M. midnight and 6:00 A.M. Saturday and Sunday unless:

1. The minor is accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor;
2. The minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor; or
3. Where the presence of such minor is connected with or required by some legitimate employee, trade, profession or occupation.

C. It is unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors between the hours of curfew designated in Subsection B of this section.

D. It is unlawful for any parent, guardian, custodian or other adult person having custody or control of any minor to suffer or permit or by inefficient control to allow such person to be on any public place within the town between the hours of curfew designated in Subsection B of this section. The provisions of this section do not apply if:

1. The minor is accompanied by a parent, guardian, custodian or other adult person having the care, custody or control of the minor;

2. The minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of minor; or

3. The parent guardian or other adult person herein has made a missing person notification to the town police department.

E. The board of trustees may permit by resolution or motion procedures for advance notice or registration with the town of special events or functions sponsored by churches, schools, clubs or other organizations which require minors to be out at a later time. The board of trustees may also prescribe the procedures for taking into custody minors found in violation of this section.

SECTION 10-414 SLEEPING IN PUBLIC

A. It is unlawful for any person, between the hours of 12:00 A. M. midnight and 6:00 A.M., to sleep on any street, in any other public place, or on any property of another without the express or tacit consent of the owner or person in charge of such place.

B. It is unlawful for a person to loiter on or about the premises of any public or private school or other public building, or in or about a depot of a public carrier.

SECTION 10-415 BEGGING PROHIBITED

It is unlawful for any person to beg alms for any person, organization or agency except an organization or agency, public or private, whose purpose or one of whose purposes is to aid persons in need.

SECTION 10-416 GAMBLING PROHIBITED

A. It is unlawful for any person, firm or corporation, or agent or employee thereof, to do any of the following:

1. To play, to open or cause to be opened, or to operate, carry on or conduct, whether for hire or not, any game of faro, monte, poker, roulette, craps, any banking, percentage or other game played with dice, cards, or any device, for money, checks, chips, or any other thing of value;

2. To set up, operate or permit to be operated, any slot machine or other device whatsoever where money, checks, chips, credit or any other things of value are played, when the act of playing the same might result in a gain or loss to the party playing;

3. To gamble knowingly in any other manner; or

4. To knowingly permit his or its premises, houses, lot or other property to be used in connection with, or for, any act declared unlawful in this section.

B. It is unlawful and an offense against the town for any person to play any roulette wheel or slot machine or any other device or machine wherein the element of chance is involved by losing or winning money, credits, checks or any other representatives of value.

State Law Reference: Authority to prohibit gambling, 11 O.S. Section 22-108.

SECTION 10-417 BEING ABOUT PLACE WHERE GAMBLING IS GOING ON.

It is unlawful for any person to be about in the immediate vicinity where a person or persons are gambling, whether by playing games, operating a slot machine or other device, or otherwise.

SECTION 10-418 HARMFUL DECEPTION.

It is unlawful for any person knowingly to deceive another, whether by impersonation, misrepresentation, or otherwise, when such deception results in or contributes to the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver.

SECTION 10-419 FALSE OR BOGUS CHECKS.

It is unlawful for any person, with intent to cheat and defraud, to obtain or attempt to obtain from any person, firm or corporation, any money, property or valuable thing of the value of Fifty Dollars (\$50.00) or less by means of any false or bogus check or by any other written or printed or engraved instrument or spurious coin. The term "false or bogus check" shall include checks or orders given for money or property which are not honored

on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof. The making, drawing, issuing or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in or credit with, such bank or other depository. Such maker or drawer shall not have paid the drawee the amount due thereon, together with the protest fees, and the check or order shall be presented for payment within one hundred eighty (180) days after same is delivered and accepted.

SECTION 10-420 SWINDLING UNLAWFUL.

It is unlawful to get money or property from any other person or persons or businesses under false pretenses, deception, cheating or by any other fraudulent act.

SECTION 10-421 SMOKING TOBACCO AND VAPOR PRODUCTS PROHIBITED.

It is the intent of the Board of Trustees, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco product and vapors product use around non-users, especially children; by protecting the public from exposure to secondhand smoke where people work, play, and learn; by reducing the potential for children to wrongly associate tobacco product and vapor product use with a healthy lifestyle; and by affirming and promoting a healthy environment in the Town of Porter, Oklahoma.

A. Definitions: The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

1. Indoor area means any enclosed area used or visited by employees or the public, at all times, regardless of whether work is being performed. Indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and any other spaces used or visited by employees, as well as all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like.

2. Municipal property means all buildings, indoor areas, and outdoor areas, including but not limited to recreational areas, and other property, or portions thereof, owned or operated by the Town of Porter, Oklahoma, including but not limited to vehicles and equipment owned by the municipality.

3. Outdoor area means any area that is not an indoor area, and included outdoor recreational area.

4. Smoking means the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

5. Tobacco product means any product that contains tobacco and is intended for human consumption. Tobacco product does not include any product approved by the United States Food and Drug administration for sale as a tobacco cessation product.

6. Vapor product means any noncombustible product that may or may not contain nicotine that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size that can be used to produce a vapor in a solution or other form. Vapor product shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, the is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

B. Prohibited Conduct

1. Smoking tobacco products is prohibited in all places in which smoking tobacco products is prohibited by Oklahoma state law.

2. Using tobacco products and vapor products is prohibited on all municipal property, indoor and outdoor, including parks and recreational area.

3. Nothing in this article prohibits any person or entity from prohibiting the use of tobacco products or vapor products on their property, even if the use of tobacco products of vapor products is not otherwise prohibited in that area.

4. No person or entity shall knowingly permit the use of tobacco products or vapor products in an area that is under the control of that person or entity and in which the use of tobacco products or vapor products is prohibited by law.

5. No person or entity shall permit the placement of ash receptacles, such as ashtrays or ash cans, within an area under the control of that person or entity and in which smoking is prohibited by law; however, the presence of ash receptacles shall not be a defense to a charge of the use of tobacco products or vapor products in violation of any provision of this article.

6. No person shall dispose of tobacco product waste or vapor product waste within an area in which the use of tobacco product or vapor products is prohibited.

7. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this article.

C. Required Signs

1. The person or entity that has legal or de facto control of an area in which the use of tobacco products or vapor products is prohibited by this article shall post a clear, conspicuous, and unambiguous sign at each point of entry to the area, and in at least one other conspicuous point within the area.

2. For restrictions on the use of tobacco products or vapor products in indoor areas, the sign or decal shall be at least 4 inches by 2 inches in size and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided. For restrictions on the use of tobacco products or vapor products in outdoor areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size, with lettering of at least 1 inch, and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided.

3. For purposes of this section, the Mayor or his/her designee shall be responsible for the posting of signs on municipal property, both indoor and outdoor.

4. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of the use of tobacco products or vapor products in violation of any other provision of this article.

D. Penalties and Enforcement

1. Enforcement of this chapter shall be the responsibility of the Code Enforcement Officer. In addition, any peace officer or code enforcement official may enforce this chapter.

2. Any person who knowingly violates this article shall be punished by a fine as provided for under Part 1, General Provisions, Chapter 1, Use and Construction of The Code, Section 1-108, General Penalty, of the Code of Ordinances of the Town of Porter, Oklahoma.

3. The possession of a lighted tobacco product in violation of this article is a nuisance.

4. The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.

5. Each instance of tobacco product or vapor product use in violation of this article shall constitute a separate violation.

6. The use of a vapor product in violation of this article is a nuisance.

7. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article regarding tobacco product or vapor product use shall also constitute a violation of this article.

8. In addition to other remedies provided by this article or by other law, any violation of this article regarding tobacco product or vapor product use may be remedied by the Town Attorney, including, but not limited to administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.

It is the intent of the board of Trustees of the Town of Porter, Oklahoma to Supplement applicable state and federal law and not to duplicate or contradict such law. The provisions of this ordinance are severable, and the invalidity of any provision of the ordinance shall not affect other provisions of the ordinance, which can be given effect without the invalid provision.

SECTION 10-422 FURNISHING TOBACCO PRODUCTS TO MINORS

A. It is unlawful for any person to sell or furnish in any manner any tobacco product to any person under the age of eighteen (18), or to purchase in any manner a tobacco product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would be concluded on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

C. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense. Provided, however, that this defense is not available, that if said defendant failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the license or identification used was that of the person who presented it.

D. Proof of age includes a driver's license or other government issued photo identification purporting to establish that the purchaser was eighteen (18) years of age or older and the defendant confirmed the validity of the driver's license or other government issued photo identification presented by the purchaser by performing a transaction scan by means of a transaction device.

E. Persons violating any provision of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 1-108 of the code of ordinances.

SECTION 10-423 PURCHASE, RECEIPT OR POSSESSION OF TOBACCO PRODUCTS BY MINOR

A. It shall be unlawful for a person who is under eighteen (18) years of age to purchase, receive, or have in their possession a tobacco product.

B. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

C. Persons violating any provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 1-108 of the code of ordinances.

SECTION 10-424 DISPLAY OF TOBACCO AGE RESTRICTION SIGNAGE

A. Any person who sells or displays tobacco product at retail must post conspicuously at the place of business a sign stating the following:

IT IS THE LAW, WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE.

The sign shall also provide a toll free telephone number for the purpose of reporting violations of the prevention of youth access to tobacco act.

B. The violation of this section carries a fifty dollar (\$50.00) fine for each day a violation occurs.

SECTION 10-425 PUBLIC ACCESS TO TOBACCO PRODUCTS

A. It is unlawful for any person to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or owner of the store.

B. If the business does not admit into the store persons under eighteen (18) years of age, this section does not apply.

C. Persons violating any provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 1-108 of the code of ordinances.

SECTION 10-426 TOBACCO PARAPHERNALIA

A. It is unlawful for any person to sell, give, or furnish in any manner to a person under the age of eighteen (18) years of age any material or device used in the smoking, chewing, or other method of consumption of tobacco, including cigarette papers, pipes, holders of smoking materials of all types, and other items designed primarily for the smoking or ingestion of tobacco products.

B. Persons violating this section shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 1-108 of the code of ordinances.

(Added May 6, 2010)

CHAPTER 5

OFFENSES AGAINST PERSONS

Section 10-501 Assault and battery prohibited.

SECTION 10-501 ASSAULT AND BATTERY PROHIBITED.

A. An assault is any intentional, willful, or unlawful attempt or offer with force or violence to do a corporal hurt to another.

B. A battery is any intentional, willful or unlawful use of force or violence upon the person of another, or by making any physical contact with another without consent.

C. It is unlawful to commit an assault or an assault and battery within the jurisdiction of the town. Any person committing an assault or an assault and battery within the jurisdiction of the town, shall be guilty of an offense.

CHAPTER 6

OFFENSES AGAINST PUBLIC AUTHORITY

Section 10-601	Resisting an officer.
Section 10-602	Refusing or failing to assist an officer.
Section 10-603	Assault or battery upon police or other law officer.
Section 10-604	Rescuing prisoners.
Section 10-605	Escape of prisoners.
Section 10-606	Impersonating an officer or employee.
Section 10-607	False alarms.
Section 10-608	False representation to an officer.
Section 10-609	Removal of barricades.
Section 10-610	Resisting public officials.

SECTION 10-601 RESISTING AN OFFICER.

A. It is unlawful to resist, oppose or assault, or in any way interfere with the police chief or any person duly authorized to act as such, while the officer or person is discharging or attempting to discharge his official duties within the limits of the town.

B. It is unlawful for any person to warn or signal another so as to assist such other person to flee, escape or evade an officer seeking to make an arrest or for any person to bar or lock any door or barrier in the face of or in front of an approaching officer.

C. Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity, and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

D. The words "obstruction of" shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is under arrest; or

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

SECTION 10-602 REFUSING OR FAILING TO ASSIST AN OFFICER.

A. An officer of the town making or about to make an arrest, or executing or about to execute a warrant or other process, in accordance with the ordinances of the town or with state or federal law, or suppressing or about to suppress a riot, affray or unlawful assembly, may call upon person or persons to assist him in making such arrest, executing such process or suppressing such riot, affray or unlawful assembly.

B. It is unlawful for any person lawfully called upon thus to assist an officer of the town to refuse or fail to do so.

SECTION 10-603 ASSAULT OR BATTERY UPON POLICE OR OTHER LAW OFFICER.

It is unlawful for any person to knowingly commit any assault, battery or assault and battery upon the person of a police officer or other officer of the law while in the performance of his duties.

SECTION 10-604 RESCUING PRISONERS.

It is unlawful for any person, in any illegal manner, to set at liberty, rescue or attempt to set at liberty, any prisoner or prisoners, from any officer or employee of the town having legal custody of the same or from the town jail or other place of confinement by the town, or to assist such prisoner in any manner to escape from such prison or custody either before or after conviction, including escape from a vehicle of confinement.

SECTION 10-605 ESCAPE OF PRISONERS.

It is unlawful for any person confined in the town jail or other place of confinement by the town, or working upon the streets or other public places of the town in pursuance of any judgment, or otherwise held in legal custody by authority of the town, to escape or attempt to escape from any such jail, prison or custody.

SECTION 10-606 IMPERSONATING AN OFFICER OR EMPLOYEE.

It is unlawful for any person to impersonate any officer or employee of the town, falsely represent himself to be an officer or employee of the town, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the town without being duly authorized to do so.

SECTION 10-607 FALSE ALARMS.

It is unlawful for any person to turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department or police department or any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless run.

SECTION 10-608 FALSE REPRESENTATION TO AN OFFICER.

It is unlawful for any person, firm or corporation, or any agent or employee thereof, knowingly to make any material misrepresentation to any officer, employee or agency of the town government in any official application to, or official dealing or negotiation with, such officer or agency; or to commit perjury before any tribunal or officer of the town.

SECTION 10-609 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the town to keep traffic off any pavement, street, curb, sidewalk or other area.

SECTION 10-610 RESISTING PUBLIC OFFICIALS.

It is unlawful for any person knowingly or willfully to:

1. Resist, oppose or obstruct the chief of police, any other police officer, the municipal judge, or any other officer or employee of the town in the discharge of his official duties;
2. Threaten or otherwise intimidate or attempt to intimidate any such officer or employee from the discharge of his official duties; or
3. Assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties.

CHAPTER 7

PENALTIES

Section 10-701 General penalties.

SECTION 10-701 GENERAL PENALTIES.

Any violation of the provisions of this part is punishable by fine or imprisonment as provided in Section 1-108 of this code.