

ARTICLE I. POWERS OF THE CITY

Sec. 1:01. [In general.]

The City of Muskogee, Oklahoma shall have all powers, privileges and functions which by or pursuant to the Constitution and laws of the state have been or could be granted to or exercised by any City. The name of the City as a body politic and corporate entity in perpetuity shall continue under the name "City of Muskogee."

Sec. 1:02. Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article. It is the purpose of this Charter to grant to and vest in the City of Muskogee, Oklahoma, all powers of self-government not prohibited by this Charter or the Constitution of the State of Oklahoma or the Constitution of the United States. The City shall have all powers possible for a City operating under a home-rule Charter.

Sec. 1:03. Intergovernmental relations.

The City may exercise any of its power or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of Oklahoma or any of its political subdivisions or agencies, or the United States or agencies thereof, or any other state or agency thereof.

ARTICLE II.
CITY COUNCIL

Sec. 2:01. Composition, eligibility, election and terms.

(a) *Composition:* There shall be a City Council composed of eight members and a Mayor, elected at large, as hereinafter provided.

(b) *Eligibility:* The Mayor shall be a qualified elector of the City of Muskogee. The Members of the Council shall be qualified electors in the Wards which they represent, provided, however, that any candidate for the office of Mayor or Member of the Council must have resided in the City of Muskogee for six months next preceding the filing for office. Eligibility shall be determined at the time of filing for office. A change in ward boundaries shall not prohibit a councilmember from completing his term of office.

(c) *Election and Terms:* The regular election of the Mayor and members of the Council shall be held on the first Tuesday after the first Monday in April in each even numbered year in the manner provided in Article VIII. At the first election under this Charter two Councilmen shall be elected from each Ward. The candidate receiving the greatest number of votes shall serve a term of four years; the candidate receiving the second greatest number of votes shall serve a term of two years. At the next regular election thereafter and at all subsequent elections four Members of the Council shall be elected for terms of four years, one from each Ward of the City. The terms of Mayor and Members of the Council shall begin on the first Monday after their election.

Sec. 2:02. Compensation, expenses.

The Members of the Council shall receive no salary or other compensation for their services, but may receive their actual and necessary expenses incurred in performance of the duties of their offices, when authorized in advance by the Council and thereafter approved by the Council upon submission of sworn claim.

Sec. 2:03. Mayor.

At each regular election a Mayor shall be elected for a term of two years. The Mayor shall have no administrative duties. He shall be a member of the Council and shall preside at meetings of the Council. He shall be recognized as head of the City government for all ceremonial purposes. The council shall elect from its members a ~~Deputy~~ Vice Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term. The Vice Mayor so elected shall serve during the term of office of the Mayor.

Sec. 2:04. General powers and duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law, including the determination of all matters of City policy. The Council shall have power, subject to legal limitations and this Charter to appoint and remove the City Manager, to enact municipal legislation by ordinance, to adopt a budget, raise revenue, make appropriations, to regulate bond elections, issue bonds, sinking funds, funding indebtedness, compensation plans for officers and employees, approve contracts and agreements, fiscal business of the City, and to create, charge and abolish all offices, departments of the City other than those established by this Charter.

Sec. 2:05. Prohibitions.

(a) *Holding Other Office:* Except where authorized by law, no Member of the Council shall hold any other City office or employment during the term for which he was elected to the Council, and no former Member of the Council shall hold any compensated, appointive City office or employment until one year after the expiration of the term for which he was elected to the Council.

(b) *Appointments and Removals:* Neither the Council nor any of Its members shall dictate in any manner the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. The heads of departments shall be appointed by the City Manager.

(c) *Interference with Administration:* Except for the purpose of inquiries and investigations ~~under Section 2:10,~~ the Council or its Members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its Members shall give orders to any such officer or employee, either publicly or privately.

Sec. 2:06. Vacancies, filling vacancies.

(a) *Vacancies:* A vacancy in the office of a Member of the Council shall exist whenever the holder thereof:

- (1) ceases to possess some qualification for the office, prescribed by this Charter or by applicable law;
- (2) dies;
- (3) resigns;
- (4) is removed from office by proceedings under applicable law; or
- (5) ceases to reside in the Ward from which he was elected by moving his residence from the ward this provision does not apply to redistricting.

(b) *Filling Vacancies:* Vacancies occurring in the office of a Member of the Council

shall be filled

by a majority vote of all the remaining members of the Council. One so appointed shall serve until the next regular election, and until his successor is elected and qualified.

(c) *Forfeiture of Office:* A member of the Council shall forfeit his office if he:

- (1) violates any express prohibition of this Charter,
- (2) is convicted of a crime involving moral turpitude,
- (3) fails to attend three consecutive regular meetings of the Council without being excused by the Council.

(4) misconduct or malfeasance in office

(5) inability or willful neglect in the performance of the duties of his office

(6) violations of the provisions of Section 9:01, Personal Financial Interest, of this Charter

Sec. 2:07. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. The Council, by certified mail, shall send to a member charged with conduct constituting grounds for forfeiture of his office, a statement of the charges, informing him that he is entitled, on demand, made within a reasonable time to be specified in said statement, to a public hearing of the charges. If the [member] demands a hearing, the Mayor shall set a time and place therefore, and shall give the member notice of such hearing, by personal service or by certified mail, in not less than seven days. Notice of the hearing shall be published in one or more newspapers of general circulation and published in the City at least seven days in advance of the hearing. At such public hearing the Municipal Judge shall preside as law

officer and such proceedings recorded by a Court Reporter or other qualified person and the record preserved in the office of the City Clerk. If the Member demands no public hearing within the time specified, the Council may proceed to determine the matter without formal hearing. Decisions made by the Council under this section shall be subject to review by the Courts. The member may be represented by Counsel at the hearing if one is held, if he so chooses at his expense. If the Council desires legal representation at any time during these proceedings the Council shall employ special counsel whose duties are limited to the matters covered by this section. The City's legal officer, and deputies, shall not participate in any proceeding or advise the Council on matters involving this section or section 2:06(c) of this Charter.

Sec. 2:08. City Clerk.

- (a) Appointment: The Council shall appoint a City Clerk and fix compensation.
- (b) The City Clerk shall be responsible to the City Council.
- (c) The City Clerk shall attend all meetings of the City Council, unless excused by the Council, and

keep the journal of its proceedings and perform such other duties as are assigned by the Charter or by the Council, on its motion, by resolution, by ordinance, or by the Statutes of the State of Oklahoma.

Sec. 2:09. Legal officer.

There shall be a City Attorney of the City appointed by the Council for an indefinite term. He shall serve as chief legal advisor to the Council, Manager and all other city departments, offices and agencies; shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter or by ordinance. The terms of employment shall be as agreed upon by the City Attorney and Council.

Sec. 2:10. Reserved.

Editors Note: Section 2:10, investigations by the council, was disapproved by the Governor and has been omitted.

Sec. 2:11. Independent audit.

The Council shall provide for an independent annual audit of all city accounts and may provide for additional audits as it deems necessary. Such audits shall be made by a Certified Public Accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section.

Sec. 2:12. Procedure.

(a) *Meetings:* The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by resolution. Special meetings may be held on the call of the Mayor or five or more members. ~~and, whenever practicable upon no less than twelve hours notice to each member.~~ All meetings of the Council ~~at which legislative action is to be taken~~ shall be open to the public and any person desiring to be heard with respect to a proposed ordinance shall be afforded the opportunity, under reasonable rules which shall be established by the Council by resolution or ordinance. All meetings of the Council shall be in accordance with the Oklahoma Open Meeting Act, or its successor.

(b) *Closed Session:* ~~For the purpose of discussing any matter affecting character or reputation of any person, the Council may meet in closed session but any official action resulting from such discussion shall be taken only in open meeting.~~ The Council may enter into executive session only for the purposes set out in the Oklahoma Open Meeting Act.

(c) *Rules and Journal:* The Council shall determine its own rules and order of business and a journal of its proceedings shall be kept. This journal shall be a public record.

(d) *Voting:* Voting, ~~except on procedural motions,~~ shall be by roll call and the ayes affirmative and nays negative votes shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties as prescribed by the rule of the Council. No action of the Council, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of five or more Members of the Council. ~~All Members present shall vote on all questions before the Council.~~

(e) *Refusal to Vote:* If a member of the Council votes "pass" or ~~refuses to vote~~ "abstains" from voting, he shall be recorded as voting "aye" in the affirmative, unless he refrains from voting because of an interest which properly disqualifies him from participation, and states specifically in the record the ground of that disqualification. In any litigation in which the legal efficacy of action by the Council is in issue, the propriety of the stated ground of disqualification shall be examined and, if found to be insufficient, his vote shall be counted as an "Aye" affirmative vote.

Sec. 2:13. Ordinances in general.

(a) *Procedure:* An ordinance may be introduced ~~by any member~~ at any regular or special meeting of the Council. Every proposed ordinance shall be in writing and a copy thereof furnished to each member of the Council upon introduction. An ordinance may be considered and debated at the meeting at which it is introduced, but it shall not be finally adopted at that meeting, except upon the affirmative individual vote of each of six members of the Council. A proposed ordinance may be amended. The "Ayes" affirmative and "Nays" negative votes upon all proposed amendments and upon the vote on final passage of the ordinance shall be taken and shall be

recorded by the City Clerk. While an ordinance is pending a copy shall be made available for inspection upon request of any citizen of the City, or to any person having an interest that would be affected.

(b) Amendment/repeal: no ordinance shall contain more than one subject. Once codified as provided herein, a codified ordinance may be amended by amending or repealing in whole or in part sections thereof.

(c) *Publication*: As soon as practicable after passage, every ordinance shall be published one time by title in a newspaper published and of general circulation in the City. The publication shall call attention to the fact that full copies are on file and available for inspection in the office of the City Clerk. Provided, however, that this section shall not apply to special assessment ordinances, but such ordinances shall be governed by the provisions of the statutes of the State of Oklahoma.

(d) *Effective Date*: All ordinances, except those containing an emergency clause, shall become effective 30 days after publication, unless a later date is specified therein.

Sec. 2:14. Emergency ordinances.

An emergency ordinance is an ordinance which, in the judgment of the Council, is necessary for the immediate preservation of the public peace, health or safety, and which should become effective prior to the time that an ordinance would otherwise become effective. Every emergency ordinance shall contain, as part of its title, the words: "and declaring an emergency". The Council shall declare the emergency in a separate section called the Emergency Section, and shall vote separately on this section which, in order to be adopted, shall require the affirmative vote of at least six members of the Council. The vote shall be by "ayes" and "nays" in the affirmative or negative and shall be entered in the journal. An emergency ordinance shall take effect upon ~~its publication~~ passage by the council and is signed by the Mayor, unless it specifies a later date, and shall be

published by title one time in a newspaper published and of general circulation in the City, as soon as practical after passage.

Sec. 2:15. Code of technical regulations.

The Council may adopt any part or all of any standard code of technical regulations by reference thereto in an adopting ordinance. The ordinance adopting any code by reference shall provide that an authenticated copy thereof shall be attached to such code and shall be kept in the office of the City Clerk as a permanent record and shall be available for examination by interested persons, and copies shall be available for purchase.

Sec. 2:16. Codification.

Within three years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Oklahoma, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as "The Muskogee City Code." Copies of the Code shall be furnished to City officers and placed in such other public offices as the Council may determine for free public reference and made available for purchase. An ordinance that provides for "codification" on the passage thereof shall be included in the next loose leaf supplement to the Muskogee Code of Ordinances.

Sec. 2:17. Municipal Court.

The Municipal Court now existing or as may be hereafter established or revised in accordance with State law shall hear cases arising out of violations of the Charter or the ordinances of the City and

provided further the Council shall have the power to create, amend or revise, by ordinance, the City's Municipal Court. The Judges of the Municipal Court shall be appointed/or removed in accordance with Title 11, Oklahoma Statutes, Chapter 27. The Judge appointed shall prescribe rules of conduct for Court business. The term of office for the Municipal Judge shall be fixed by ordinance.

ARTICLE III.
CITY MANAGER

Sec. 3:01. Appointment; qualifications; compensation.

The Council shall appoint a City Manager and fix compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the City or State at the time of his appointment, but thereafter must reside within the corporate limits of the City during his term of office.

Sec. 3:02. Removal.

The Council may remove the Manager from office at any time upon an affirmative vote of a majority of all its members.

Sec. 3:03. Designation of an acting city manager.

By letter filed with the City Clerk, the City Manager shall designate, subject to the approval of the Council, a qualified city administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. ~~In the event of an emergency, approval of the Council may be obtained by polling the Council, either by the City Manager or City Clerk. If the City Manager fails to make such designation, the Council may appoint an acting City Manager.~~

During such absence or disability, the Council may revoke such designation as acting City Manager at any time and appoint another administrative officer of the City to serve until the City Manager shall return or his disability cease.

Sec. 3:04. Powers and duties of the city manager.

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (1) He shall appoint and, when deems it necessary for the good of the service, suspend

or remove all city employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

- (2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter, and may delegate responsibilities.
- (3) He shall attend all meetings of the Council, unless excused by the Council, and shall have the right to take part in discussion but shall not vote.
- (4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (5) He shall prepare and submit for approval of the Council the annual budget and capital program.
- (6) He shall submit to the Council and make available to the Council a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of city departments, offices and agencies subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

- (9) He shall perform such other duties as are specified in this Charter or may be required by the Council.
- (10) Any duties of the City Manager may be delegated by him to his subordinates.

ARTICLE IV.

ADMINISTRATIVE DEPARTMENTS

Sec. 4:01. General provisions.

There shall be such administrative departments, offices and agencies as this Charter creates and as the Council may establish by ordinance. Each administrative department shall be headed by a Director with appropriate title, who shall be an officer of the City, appointed by the City Manager for an indefinite term. The City Manager may also serve as a Director of a Department. The Director of a Department shall have supervision and control of the Department, subject to the control and authority of the City Manager. There shall be such divisions and other organizational units within each Department as this Charter or the Council may create, consistent with the Charter and ordinances of the City.

Sec. 4:02. Merit system.

There is hereby created a Merit System of employment for the employees of the City of Muskogee, Oklahoma. All city officials and employees shall be selected and hold their status pursuant to this Charter with the following exceptions:

- (a) Officials elected by the people.
- (b) Members of the Boards and Commissions.
- (c) Members of the Muskogee Fire Department.
- (d) Election officials appointed pursuant to this Charter.
- (e) All City Officials elected by the City Council.
- (f) All part-time and provisional employees.

The above designated Merit System shall provide, as hereinafter set out, a procedure for classifying the kinds of employment, determining the qualifying requirements for employees and rules and regulations and methods of employment and the provisions of this Charter shall be binding, as terms

of employment, upon all the employees of the City of Muskogee except as above enumerated.

Sec. 4:03. Administrator.

(a) The City Manager shall be charged with the general administration of the Merit System subject to the rules and regulations of the Merit System and the proper rules and regulations approved by the Council. He may properly delegate the details of this work to his subordinates and the several department heads. He shall appoint a ~~eustodian of all personnel records~~ Human Resources Department Director who shall be the administrative officer.

(b) Said administrative officer or his properly designated subordinate shall keep on hand and open for public inspection a list of the jobs in each department, a list showing the qualifications and requirements for each of said jobs. ~~and an eligible register of qualified applicants for the jobs in each department.~~

(c) Said administrative officer shall present to the ~~City Council~~ City Manager for approval ~~as prepared by the City Manager and department heads~~ a set of uniform rules and regulations covering the following conditions of employment, to-wit: Titles, Classifications, working hours, sick and annual leave, transfers and promotions and causes for discharge and suspension. Upon approval by the ~~city council~~ City Manager, these rules and regulations shall constitute the terms of employment. If deemed in the best interest for the management of the City or as may be required by Federal or State law, the City Council may approve certain rules as policy directives (Council Policy); in addition, the City Manager may adopt rules for the administration of matters not inconsistent with this Charter and the ordinances of the City.

Sec. 4:04. Enforcement. ~~Sec. 4:04. Repealed by adoption of this amended Charter.~~

~~The Merit System Board as hereinafter set up shall be responsible for the enforcement of the rules and regulations for the administration of the Merit System subject to the adoption by the City Council and such other matters as may be necessary and advisable in carrying out the intention and~~

purpose of this Charter.

Sec. 4:05. Merit system board.

A Merit System Board is hereby established to supervise all examinations for qualifying applicants for employment; to serve as an Appeal Board. ; and to see to the carrying out of the Provisions of this System and the rules and regulations of employment. The Board shall consist of three members to be selected in the following manner:

One shall be appointed by the Mayor with the approval of the Council;

One shall be appointed by the City Employees;

The third member shall be selected by the first two.

All Members of the Board shall possess the same qualifications as those required for petit jurors; shall be residents of the City of Muskogee, and shall serve without compensation.

Each Member of this Board shall take an Oath of office to faithfully discharge his duties and shall serve for a term of two (2) years and may be reappointed for not more than two successive two year terms. Each successor shall be selected in the same manner and shall serve for a like term. A Member of this Board may be removed from office only by the same method and procedure necessary to remove a Member of the City Council of the City of Muskogee from office. A member of this board may succeed himself and shall hold office until the duly selected successor is appointed and qualified. Vacancies may be filled on said board by appointment in the original manner for the unexpired term.

The City Clerk shall be Secretary of said Board, and shall be the official upon whom all notices, requests for hearings, complaints and other official documents shall be served or filed.

Sec. 4:06. Operations.

The City Council may appropriate funds and do whatever is necessary to activate and operate the Merit System of the City of Muskogee.

Sec. 4:07. Appointments under the merit system.

~~———— (a) ——— Employees of the City of Muskogee on the date this Charter becomes effective and who have been employed by the City of Muskogee for a period in excess of one year continually shall be, upon the recommendation of the Head of their Department and with the approval of the City Manager, or in case of Department Heads, recommendation by the City Manager, declared qualified under the Merit System for their jobs and shall be appointed under the Merit System to said job without further examination or probation. Any disagreement arising between present employees and the City concerning giving of full rights under the Merit System or refusing of full rights under the Merit System shall be reviewed by written appeal within ten days to the Merit System Board for decision which decision shall be final. All other employees failing to qualify as above may be placed without examination on a one year probation status and continued as temporary employees until qualified applicants are available on the eligibility list for the classification, at which time, the temporary employees shall be replaced by an applicant from the eligible list or shall be confirmed as an employee entitled to the rights of the Merit System, provided the term of employment exceeds one year, or if the term of employment of a temporary employee is less than one year he may be continued for the one year probationary period at the discretion of the Department Head.~~

(a) Except as otherwise provided by this Charter appointments and promotions in the service of the City shall be made solely on the basis of merit and fitness.

(b) All future appointments to positions with the City of Muskogee shall be made by the Department Heads with the approval of the City Manager. from the appropriate eligibility list.

(c) Employees of the City of Muskogee who are employees of the City on the date this amended Charter becomes effective shall continue in their current position and status in effect prior to the effective date of this amended Charter.

Sec. 4:08. Provisional appointments. Sec. 4:08. Repealed by the adoption of this Amended Charter.

~~In event no properly qualified applicants are available for the jobs the administrative officer may make provisional appointments for terms of not to exceed three months in any one fiscal year.~~

Sec. 4:09. Abolition of position.

City Council may abolish any job for any reason whatsoever at any time and the employee whose job is abolished may be dropped from the payroll, but in the event said job is re-created within one year said employee so previously dropped, if then competent, shall be eligible to be appointed to said recreated position in preference to any other person.

Sec. 4:10. Who may be employed by the city. Sec. 4:10. Employees of the City

~~(a) — Applicants for employment with the City who are legal residents of Muskogee shall be given 10 points preference on examinations scores over non-residents, and non-residents may not be employed except where no legal resident of Muskogee is shown on eligibility list for that classification.~~

~~(b) In the event of vacancies, employees in any other classification shall have the right of participation in the examination for any other position and consideration shall be given to their proficiency rating and record in their present positions and they shall have preference over non-experienced applicants, if so recommended by the Department Head.~~

Sec. 4:11. Rules and regulations.

~~(a) Each Department Head shall furnish the administrative officer a list of all positions in his department that comes under the provisions of this Charter, setting out the duties and qualifications necessary to secure and hold said positions. The administrative officers shall seek qualified applicants for vacant positions within City government based on this information.~~

~~(b) — The administrative officer in conjunction with the respective Department Heads and~~

with the approval of the City Council shall determine the type and kinds of qualifying examinations with the proviso that personality and reputation of the applicant shall not in any case be considered to represent more than 1/3 of the required number of points to qualify for position under the provisions of this Merit System and the qualifying examinations may be written or oral, and the result shall be reduced to writing. Qualifying examinations shall be held at least once per year with the proviso that the life of any eligibility list shall not exceed two years.

(b) Appointments for employees shall be made from the eligibility list eligible applicants by the Department Head concerned, with the approval of the City Manager, from the said list of qualified applicants taking into consideration the fact that the chosen applicant must be physically qualified to do the work.

(c) Appointments from the eligibility list shall be made for a probationary period of one year and upon successful completion of the year and recommendation by the Department Head at the end of that year and approval by the City Manager said employee is entitled to all benefits of this Merit System. During the probationary period the probationer may be discharged or demoted by the appointing authority without the right of appeal if during the probation period the appointing authority deems him or her unfit or unsatisfactory for continued service.

(d) After serving the probation period and being confirmed as an employee entitled to the benefits of the Merit System, said employee may not be discharged from employment as an employee of the City of Muskogee except for cause and one so discharged shall have the right to appeal in writing in five days to the Merit System Board, which Board shall review within ten days of filing of the appeal, the cause for discharge and give the discharged employee and the Department Head an opportunity to be heard. ~~and said~~ The parties may summon witnesses to be heard and after a full hearing, if the Merit System Board finds that ~~said~~ the employee has been unjustly discharged, he or she shall be restored to their former position with full pay; from date of

~~discharge or such other action including a lesser form of discipline as deemed appropriate by the Board. In event the Board finds the discharge of the employee was justified, the employee shall remain discharged from the date of the original discharge. Action by the Board shall be final, except that a re-consideration of the Board's action may be had within 30 days of the date of the original decision upon the grounds of newly discovered evidence.~~

(e) An employee may be suspended without pay for a period not to exceed 30 days by his Department Head for violation of any of the rules and regulations of employment ~~of this Merit System~~ or for any other misconduct by said employee. The City Manager may suspend an employee for a period in excess of 30 days but in no event for more than 90 days. The suspended employee may appeal the suspension in writing to the Merit System Board. Such appeal must be in writing within five days from the date of said suspension and said Merit System Board shall then follow the procedure herein set out for the consideration of discharge protest cases.

(f) The City Manager shall approve all disciplinary actions in excess of a "letter of reprimand." ~~Any employee may be~~ The City Manager may discharge or demote, in addition to a suspension of any employee for violations of the rules of employment, inefficiency or for cause. The City Manager may demote a Department Head for violations of the rules of employment, inefficiency or cause.

Sec. 4:12. Civil Service Commission.

There is hereby created in the Fire Department of the City of Muskogee a Civil Service Commission which shall be composed of three members, one of whom shall be selected and appointed by the City Council to serve for a period of six years from the date of the appointment, one to be appointed by the active members of the Fire Department of the City of Muskogee to serve for a period of five years and the two members so selected and appointed to select and appoint a third member who shall serve for a period of four years from the date of appointment. The selection

and appointment of successor of each member whose term expires hereunder shall be made in the same manner as provided for the selection of membership of said Board. All members of said Commission shall serve without compensation. The Civil Service Commission shall select one of its members as Chairman and one as Secretary. No person shall be appointed to said Commission who is employed by the City or other governmental subdivision.

Sec. 4:13. Membership in fire department.

The Fire Department of the City of Muskogee shall consist of a Chief and such assistants, captains, engineers and other employees as in the judgment and opinion of the City Council may be required for the safe and efficient work and administration of said department. The Chief of the Fire Department shall be appointed by the City Manager and all other employees shall be appointed by the Chief of the Fire Department.

Sec. 4:14. Qualifications of chief and members of fire department.

No person shall be appointed or employed as Chief of the Fire Department who has not been a regular member of the Muskogee Fire Department who has not been a regular member for a period of at least five consecutive years prior to his appointment.

No person shall be appointed or employed as a member of the Fire Department ~~who has not been a resident of the City of Muskogee for a period of one year prior to his appointment and who is under twenty-one years or over thirty years of age who has reached the age of forty-five (45) years or who is exempted from the age requirements by Title 11 Oklahoma Statutes Section 49-135.~~ unless he has previously served in the Muskogee Fire Department. Prior to appointment as a member of said Fire Department an applicant must undergo a physical examination by the City Physician and obtain a certificate certifying as to his physical ability to perform duties of a fireman.

Sec. 4:15. Hours of regular duty.

No member of the Muskogee Fire Department shall be required to be on regular duty over

an average of fifty-six hours per week computed annually over the City's fiscal year or any unexpired portion thereof. Day duty shall be ten continuous hours per day and night duty shall be fourteen continuous hours per night.

Sec. 4:16. Subject to special duty at all times.

As a condition of their employment members of the Muskogee Fire Department at all times shall in addition to such regular duty be subject to special duty when there is grave or unusual danger of conflagration or other emergency requiring such service as is usually performed by those generally engaged in that occupation.

Sec. 4:17. Suspension, demotion, discharge and re-appointment of members.

No member of the Fire Department shall be discharged except upon written charges preferred before said Civil Service Board above created and without an opportunity for a fair and impartial hearing before said Commission. The Chief of the Fire Department may for cause demote in rank or suspend any member of the Department for a period not to exceed thirty days. The provided the demoted or suspended member shall have the right to appeal to the Civil Service Commission and to a full and complete hearing as to such demotion or suspension and provided further, that successive suspension disciplinary actions of the same member of for the same given offense shall not be permitted.

In the event of a reduction in the membership of the Fire Department the release, discharge and suspension of membership shall be made strictly according to seniority and should the personnel of the Fire Department be thereafter enlarged, firemen theretofore released, discharged, or suspended shall be re-appointed, if qualified, in accordance with their seniority. ~~and~~ Any member feeling himself aggrieved may within thirty days after his suspension, discharge, release or failure of re-appointment, appeal to the Civil Service Commission for a hearing and decision as to the

action taken.

Sec. 4:18. Rules and regulations.

The Chief of the Fire Department shall prescribe reasonable rules and regulations to govern and regulate the Fire Department, subject to the approval thereof by the City ~~Council~~ Manager.

Sec. 4:19. Hearing before Commission.

The Civil Service Commission shall immediately upon the institution of charges against, or the presentation of a grievance of any member of the Fire Department convene and conduct a full hearing and decision which finding and decision shall be final and conclusive and the proceedings before said Commission shall be reduced to writing and kept of record in the Office of the City Clerk of Muskogee, Oklahoma.

Sec. 4:20. Retirement and pension systems.

(a) ~~*Firemen's Relief and Pension Fund*~~ *Firefighters Pension and Retirement Fund*: The Council shall make an annual appropriation ~~from the General Fund~~ to allow contributions to the Oklahoma Firefighters Pension and Retirement Fund in amounts specifically required by State law.

(b) ~~*Police Pension and Relief Fund*~~ *Retirement System*: The Council shall make an annual appropriation ~~from the General Fund~~ to allow contributions to the Oklahoma Police Pension and ~~Relief Fund~~ Retirement System in amounts specifically required by State law.

(c) *Municipal Employees Retirement System Fund*: The Council shall make an annual appropriation ~~from the General Fund~~ to the Municipal Employees Retirement System Fund in an amount that the Council shall determine by ordinance.

ARTICLE V.

FINANCIAL PROCEDURES

Sec. 5:01. Collection of revenue.

Subject to such regulations as the Council may prescribe by ordinance or resolution, the City Clerk shall collect and receive all revenues and other money for and on behalf of the City and shall deposit the same with the City Treasurer in such accounts maintained by the City Treasurer in depository or depositories prescribed by the Council.

Sec. 5:02. City treasurer.

There shall be a City Treasurer appointed by the City Manager as heretofore provided in Sec. 4:01 who shall perform such powers and duties and functions as prescribed by this Charter or by applicable law or ordinance.

ARTICLE VI.
PLANNING AND ZONING

Sec. 6:01. General Powers.

The City of Muskogee shall have full power to promote the public health, safety and general welfare by regulating the use of property and controlling and directing the development of the City through the exercise of the complete powers of planning and zoning within the city limits to the full extent permissible under the Constitution of the United States and the Constitution of the State of Oklahoma. The exercise of the powers of planning and zoning within the City shall always be in pursuance of this grant of authority, and not under state law, except with respect to those matters of general state concern as to which state law is controlling.

Sec. 6:02. Present regulations adopted.

The planning and zoning regulations existing in the City of Muskogee at the effective date of this Charter hereby are adopted and continued in force, under authority of this Charter, until altered or repealed by the City Council.

Sec. 6:03. Planning department.

There shall be a Planning Department headed by a Director who shall be appointed by the City Manager as provided by Section 4:01 and who shall have the following responsibilities:

- (1) Assist the City Manager and City Council in the exercise of the powers of planning and zoning herein provided.
- (2) Formulate and recommend to the City Manager a comprehensive plan and modifications thereof.
- (3) Advise with the City or Metropolitan Area Planning Commission or any Board authorized by law in the exercise of planning and zoning responsibilities.

Sec. 6:04. Notice and hearings.

Before enacting, amending or repealing any ordinance affecting the classification of property in any way within the city limits for purposes or planning or zoning, or both such purposes, at least fifteen (15) days notice shall be given of the time and place of a public hearing thereon before the City Council at which parties in interest and citizens shall be permitted to be heard in respect to such proposal. The notice shall specify plainly and accurately the nature of the proposal and shall be given by publishing one time in a newspaper published and of general circulation in the City.

ARTICLE VII.

BOARDS, COMMISSIONS, AND PUBLIC TRUSTS

Sec. 7:01. Hospital board.

There is hereby created a Hospital Board consisting of seven members who shall serve without pay; said members shall be appointed by the City Council for a term of seven years. In case of a vacancy on the board, an appointment to fill the unexpired term shall be made in the same manner as the original appointment.

- (a) No person shall be appointed to serve on the Board who has not been a resident of the City of Muskogee at least two years prior to his appointment.
- (b) The Board shall elect one of its members as Chairman and one as Secretary. The Chairman shall preside over all meetings of the Board and the Secretary shall keep a record of the meetings and shall perform such other duties as may be prescribed by the Board.
- (c) The Board shall have exclusive care, management and control of all hospitals as may be owned or acquired by the City which the Board may name. The Board shall appoint and, when necessary for the good of the service of the hospitals, suspend or remove any employee or, in its discretion and subject to such rules and regulations as it may prescribe, it may authorize the superintendent of each hospital under his [its] supervision to appoint and remove the subordinate employees.
- (d) The Board shall have full power to acquire in any manner, including condemnation, property to be held by the City for any or all hospital purposes; and to construct, maintain or use buildings necessary or proper for such purposes. The Board shall make rules and regulations for the maintenance and conduct of the hospitals and hospital properties. It shall maintain such hospitals so as to meet the requirements for

standardization as set out by the American College of Surgeons and the American Medical Association.

Sec. 7:02. Public trusts.

The Council by Ordinance may establish Trusts for the public benefit, or by Resolution may accept the beneficial interest of Trusts created for the public benefit. To carry out the purposes of any such Trusts, the Council may lease city property to the Trust or by Deed of Trust vest title to city property, real or personal, in such Trusts and retain the beneficial interest of the Trusts.

The Council may appropriate city funds to such Trusts to aid or support the purposes of such Trusts.

Sec. 7:03. Other boards and commissions.

The Council, by ordinance, may establish advisory boards or commissions, prescribing their membership, qualifications, and tenure, to perform such functions and duties in any area of municipal concern as the Council deems necessary or desirable. The Council may delegate to such board or commission, under proper standards, any duty and responsibility in connection with any municipal activity with power to enact regulations with reference thereto. No such board or commission, however, may expend City funds, enter into contracts, leases or other arrangements involving public property, without the approval of the Council by resolution or ordinance.

Sec. 7:04. Appointments to boards, commissions, committees, and trusts.

Council appointments to all Boards, Commissions and Trusts will, with the exception of the Merit System Board, (Section 4:05) and Civil Service Commission (Section 4:12), be for the initial term and one additional consecutive term as provided in the Charter, ~~or by Ordinance, Trust~~ Indenture, statute, or agreement creating the Board, Commission or Trust, and appointee will not be eligible for ~~reappointment~~ reappointment until one year shall have elapsed. Persons appointed to Boards, Commissions, and Committees shall be residents of the City at the time of their

appointment and shall only be eligible to serve for so long as they maintain their residents in the City limits. Residency requirements for appointments to public trusts of which the City is the beneficiary shall be as provided in the Trust Indenture.

Sec. 7:05. Parks and park property.

All lands and real property located in the City of Muskogee which have been heretofore, or which may be hereafter set apart or dedicated for the use of the public as a public park, shall forever remain to the use of the public. No part of said land or real property shall ever be disposed of by the City unless authority therefore is granted at an election.

ARTICLE VIII.

NOMINATIONS AND ELECTIONS

Sec. 8:01. City elections.

(a) *Regular Elections:* The regular city election shall be held on the first Tuesday in April in each even numbered year. There shall be no primary election. In the event no candidate receives a majority of the votes cast for any office in the General Election, there shall be a Run-Off Election between the two candidates receiving the greater number of votes cast in the General Election to be held the second Tuesday in May following the General Election.

(b) *Qualification of Electors:* All citizens qualified by the Constitution and laws of the State of Oklahoma to vote in the City of Muskogee and who satisfy the requirements for registration prescribed by law shall be qualified electors of the City within the meaning of this Charter.

(c) *Conduct of Elections:* The City Council ~~may~~ shall by Resolution authorize the Muskogee County Election Board to conduct the election or determine any contest thereof with the City to pay the costs to the County Election Board. The City Council shall approve a Resolution as required by State law calling all municipal elections, ~~naming an Inspector, a Judge and a Clerk to serve in each precinct. The Judge and Clerk shall be the official counters in each precinct. The Resolution calling the election shall specify~~ specifying the election officials for each precinct, the polling places, and the hours the polls shall be open. It shall be published one time in a newspaper published and of general circulation in the City not more than fifteen days or less than ten days prior to the election.

(d) *Absentee Ballots:* The City Council shall by ordinance and in accord with Title 26 Oklahoma Statutes, Section 38-133, provide that absentee ballots be permitted in all primary, runoff, general and special elections held within, for and on behalf of the City of Muskogee. ~~authorize the casting of absentee ballots in city elections and establish the procedure therefore.~~

(e) *Voting Precincts:* Voting precincts for city elections shall be those established under the election laws of the State of Oklahoma as the precincts for State or County Elections. Where a precinct extends beyond the City Limits, such precinct, for the purpose of elections under this Charter, shall be deemed as extending only to the City Limits.

(f) *State Election Laws to Govern where Applicable:* All the provisions of the election laws of the State, where applicable, and except where the same would be in conflict with the special provisions herein made in this Charter, shall apply to all elections held in the City of Muskogee.

Sec. 8:02. Candidates.

~~(a)~~ *Filing of Candidates:* Any qualified elector of the City of Muskogee may become a candidate for any office in an election by filing with the City Clerk a Declaration of Candidacy in such form as approved by the City Council, setting forth his name, his street address, the name of the office for which he is a candidate and the date of the election. The filing period opens at 8:00 a.m. on the first Monday in February preceding the election and closes on the next succeeding Wednesday at 5:00 p.m. A candidate for member of the City Council shall designate the Ward which he seeks to represent, stating that he is a resident thereof and has been a resident of the City for six months preceding the filing. Contests of candidacy shall be determined by the City Clerk in accordance with State law.

~~(b) *Filing Fee:* The City Council shall have the power to provide, by ordinance, a filing fee for candidates, to establish and change the amount thereof, and to provide for its refund.~~

~~(Res. No. 1890, 8-9-1999)~~

Sec. 8:03. Withdrawal of candidates.

Any candidate may withdraw by filing a written notice with the City Clerk no later than 5:00 p.m. on the Friday following the close of the filing period.

Sec. 8:04. Ballots for candidates.

The full names of all candidates for each office to be filled in the City Council shall be printed in alphabetical order on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot. The candidates for members of the Council shall be separated by Wards.

Sec. 8:05. Watchers and challengers.

A regularly nominated candidate shall be entitled to appoint a person to represent him as a Watcher, and also entitled to appoint a person to represent him as a Challenger, at each polling place where voters may cast their ballots for him. Persons so appointed shall have all the rights and privileges and be subject to the same obligations and restrictions, prescribed by and under the general election laws of the State of Oklahoma.

Sec. 8:06. Determination of election results.

(a) Number of Votes: The Mayor and members of the Council shall be elected at large, by qualified electors of the entire city. Each qualified elector shall be entitled to vote for one candidate for each office to be filled.

(b) The candidate who receives the majority of votes cast in the General Election or Run-off Election shall be declared elected. In case of a tie, the election shall be determined among those candidates tying, defer by lot, in a public meeting of the City Council and under its direction.

Sec. 8:07. Arrangement of measures on ballot.

(a) Whenever one or more measures or questions are submitted to the people and are to be voted upon at the same time as any officer or officers are to be elected, such measures and questions shall be submitted upon a ballot separate from that bearing the names of candidates for office. Ballots for any measure or question shall be non-partisan in form.

(b) An ordinance or Charter amendment to be voted upon by the electors of the City

shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "Yes" and "No" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

Sec. 8:08. Voting machines, electronic transmission of ballots or fax voting.

Elections may be conducted with mechanical or other devices. Electronic transmission of election materials or ballots or fax voting will be authorized for absentee ballots only in accordance with State Law.

Sec. 8:09. When election not to be held.

If no more than one candidate filed for an office to be filled at any City election, the candidate shall be declared elected and his name shall not appear on the ballot. If, at the end of a filing period, all offices are uncontested, in accordance with the preceding sentence, no election shall be held, and all the uncontested candidates shall be declared elected.

Sec. 8:10. Wards.

(a) There shall be four wards in the City of Muskogee.

~~(b) — Geographical Boundaries: Ward No. I shall consist of that part of the City of Muskogee lying east of the right-of-way line of the M. K. & T. Railroad Company and North of the center line of Okmulgee Avenue. Ward II shall consist of that part of the City of Muskogee lying east of the M. K. & T. Railroad Company right-of-way and South of the center line of Okmulgee Avenue. Ward III shall consist of that part of the City of Muskogee lying west of the M. K. & T. Railroad company right-of-way and South of Okmulgee Avenue. Ward IV shall consist of that part of the City of Muskogee lying west of the M. K. & T. Railroad company right-of-way and North of~~

~~the center line of Okmulgee Avenue.~~

(b) Redistricting commission created.

1. There shall be a redistricting commission, which shall consist of nine voting members, none of which may be a council member, as follows: one member appointed by the Mayor, and eight members, one appointed by each member of the Council from his or her respective ward. The Planning director shall be an ex officio member of the commission, but shall have no vote.

2. All members of the redistricting commission shall be qualified electors of the City, and shall hold no other office or position of employment in the City government.

3. The terms of all the nine voting members shall be five years, beginning on January first, 2011. The eight members appointed from the wards shall be chosen so as to reflect the principles set out in subsection (c)(1) hereinbelow.

4. Vacancies shall be filled by the respective appointing authority for the unexpired terms.

5. In the absence of both the chairman and the vice-chairman, the member who is most senior in service on the redistricting commission shall be temporary chairman, may call special meetings, and may preside until a chairman is elected by the commission.

(c) On or before December 31, 2011, and on or before December 31st of every fifth year thereafter, and at other times it deems desirable, the redistricting commission shall pass and file with the City Clerk a resolution readjusting the wards if necessary and their boundaries to comply with the following requirements:

~~(e) — Extension of Wards by Ordinance: Where an addition or area within the corporate limits of the City of Muskogee is not directly subdivided by the natural extension of Okmulgee Avenue, or the right-of-way of the M. K. & T. Railroad company, the Council shall by ordinance~~

~~follow, so far as is practicable, the logical extension thereof, and determine within which of the four Wards of the City such area shall be included.~~

1. Each ward shall be formed of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible.

2. The wards shall be substantially equal in population. United States Census Bureau Tracts/Blocks from the most recent Federal decennial census, shall be used to determine population. To the extent practicable, the Commission shall not subdivide precincts established by the County election board in establishing ward boundaries.

(d) At least ten (10) days before passing the resolution, the redistricting commission shall hold a public hearing thereon. At least five votes shall be required for passage of the resolution, and the vote on passage shall be by roll call and shall be entered in the minutes of the commission. A map showing the wards and their boundaries shall be appended to the resolution. The resolution shall go into effect when filed with the City Clerk. Thereupon, the new wards and boundaries shall supersede the previous wards and boundaries for purposes of the next election, and for all other purposes on the day on which the terms of offices for councilmember's elected that year begin.

(e) When territory is annexed to the City, the redistricting commission, by resolution in the manner provided hereinabove, shall incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries as provided hereinabove, as it deems appropriate.

(f) Any incumbent councilmember whose residence is included in a different ward because of the revision of ward boundaries as required herein may serve out his elective term as a councilmember from the numbered ward from which has was elected, irrespective of this non-residence therein.

Sec. 8:11. Initiative and referendum.

The powers of initiative and referendum are reserved to the people of the City of Muskogee. In the exercise of these powers the requirements of the Constitution and laws of the State of Oklahoma shall be followed. Sections 4-a, 4-b, 4-c, 4-d and 4-e of Article XVIII, of the Constitution of the State of Oklahoma and Title 34, Oklahoma Statutes, “Initiative and Referendum” are hereby incorporated herein and are of full force and effect as if copied word for word into the body of this Charter.

~~(1) — *Proposed Amendments:* Proposals to amend this Charter may be submitted by the Council or by the Mayor upon initiative petition of the people as provided by the Constitution and laws of the State of Oklahoma. A proposition to amend this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.~~

Sec. 8:12. Amendment of Charter.

This Charter may be amended from time to time at an election at which the proposed amendment is submitted to a vote of the qualified electors of the City, by a majority vote of the electors voting at an election on the proposed amendment. Proposed amendments may be submitted by the Council or by the Mayor upon an initiative petition of the electors as provided by the Oklahoma Constitution, at a general or special election. A proposition to amend this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or a proposed new Charter.

~~(2) — *Filing of Proposed Amendments and Election:* Proposed amendments to this Charter shall be filed with the City Clerk not less than thirty days before the election at which they will be voted upon, either at a regular or special election, ratified by a majority of the qualified electors voting upon each proposed amendment and approved by the Governor as provided by the Constitution and laws of the State of Oklahoma. Unless otherwise provided in the submission, amendments shall be put into operation immediately upon or as provided by law.~~

ARTICLE IX.

GENERAL PROVISIONS

Sec. 9:01. Personal financial interest.

~~Any City~~ No officer, employee, Councilmember or Mayor, elective or appointive shall violate the provisions of 11 O.S., Section 8-113, Conflict of Interest, as it now exists or may hereafter be amended. The criminal penalty for violation of this section shall be as provided in the State Statute. who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, If a conflict of interest exists as set out in 11 O.S. Section 8-113 the Mayor or Councilmember shall disclose that interest in writing to the City Manager Clerk and shall refrain from voting upon or otherwise participating in his official capacity in the making of such a sale of land, materials, supplies or services, or in the making or performance of such a contract in violation of the statute. Any such person who willfully conceals such a substantial his financial interest as defined or willfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit his office or position subject to the provision of Section 2:07 of this Charter. Violation of this Section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Council, as required by 11 O.S. Section 8-113E.

Sec. 9:02. Prohibitions.

(a) *Activities Prohibited:*

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or

affiliations.

(2) No member of the City Council shall appear on behalf of any private interests before any officer, department or agency of the City government or represent private interests in any action or proceedings to which the City is a party. No member of the City Council shall accept any valuable gift or any free services from any person, firm or corporation involved directly or indirectly in the transaction of any business with the City.

(3) No appointive officer or employee drawing salary or other compensation from the City shall take part in any campaign for the nomination or election of City officers or engage in political activity in any form in connection with such nomination and election.

Sec. 9:03. Purchase and sales.

Sec. 9:03. Purchase and sales.

(a) *Purchases by City Manager:* The City Manager shall contract for, purchase, or issue purchase authorization for all supplies, materials, services and equipment (including rental thereof when appropriate) for offices, departments and agencies of city government. The Council, by ordinance or resolution, may require purchases or contracts of purchases above an amount prescribed by ordinance or resolution to be approved by the Council before being made. This requirement may be general in terms or may be applied to particular classes of transactions, to particular offices, departments or agencies, or to particular classes of property.

(b) *Sale of Surplus Property:* When the City Council, by resolution, determines that any property, real or personal, then owned by the City, has become surplus to any foreseeable need or use, the City Manager may sell such property, subject to such regulations as may be prescribed by ordinance or resolution.

(c) *Competitive Bidding:* Before the purchase of, or the making of a contract for, any supplies, services, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding shall be given under such regulations and which such exceptions as the Council may prescribe by ordinance from time to time. The Council shall not except a particular contract, purchase or sale from the requirement of competitive bidding but, in the ordinance, may exempt classes of transactions or transactions involving less than a certain specified amount.

If, in response to a solicitation for competitive bids in accordance with requirements established under paragraph (c) above no bids are received, or if the bids received are all inadequate or excessive, as the case may be, or if the bidders are found not to be responsible, or if the bids in any other respect do not meet required specifications, the Council may direct a new solicitation for bids, upon the same terms or upon other terms, or it may direct the City Manager to conduct the transaction by private negotiations upon such terms and subject to such conditions as it may direct, or it may vest the City Manager with discretion to fix the terms and conditions.

(d) *Transfer of Supplies:* The City Manager may transfer supplies, materials, and equipment between offices, departments and agencies of the City.

(e) *Leasing of Property:* The City Council shall have the right to lease, either as Lessor or Lessee, any property, real or personal, upon such terms as the Council may approve.

(f) The City Council by ordinance may authorize the city manager to dispose of personal property which has come into the possession of the Chief of Police. The ordinance shall provide that the property shall be in the possession of the Chief of Police for at least six (6) months and that the personal property is no longer needed as evidence. The ordinance shall provide for notice as required by Title 11 Oklahoma Statutes Section 34-104 C except that no hearing need be held and ownership may be established by action of the City Manager. The ordinance may provide for the assessment of costs. The

disposal of money, legal tender or firearms must follow the procedures set out in Title 11 Oklahoma Statutes Section 34-104.

Sec. 9:04. Public improvements.

(a) *Paving:* The City Council shall have power to establish and change the grade of any streets, avenues, lanes, alleys, and other public places in the City and to permanently improve the same by paving, macadamizing, curbing, guttering, and draining them, including the installation of all manholes, catch basins and necessary drainage and sewer pipes, whenever in their judgment the public convenience may require such improvements. These improvements shall be made pursuant to the procedure set forth in the general laws of the State unless the City Council, by ordinance, shall establish the procedure and assessment formulas to be used. The City Council shall have power to make such improvements under its own equipment, and with the use of day labor. It shall apportion the cost thereof against the abutting property benefited thereby in like manner as if let by contract. The City, in no case, shall be liable for the payment of any assessment or assessments so made, except on property owned by it.

(b) *Sidewalks and Sewers:* The City Council shall have power to enact ordinances governing the construction, maintenance and repairing of sidewalks, sewers and drains including, without limitation as to other general power, the manner of initiating and establishing projects for such purposes, determination of whether they shall be financed from general revenues or from special assessments against property benefited, the establishment of districts for that purpose, the levy and collection of special assessments, the letting, performance and enforcement of contracts, and all other matters relating to such public improvements. In the absence of provision by ordinance relating to these matters or to any part of them, the general laws of the state upon such subjects shall govern.

(c) *Procedure:* Where the City establishes a procedure and assessment formulas for the

making of public improvements in a manner different to the procedure provided by the general laws of the state, all persons in the proposed assessment area shall be given opportunity to protest. When the owners of a majority of the area to be assessed shall protest the proposed improvement, then such improvement shall not be made and shall not be again initiated by the Council for six months.

Annotation--For a case upholding the city's right to levy special assessments for establishment of street lighting district under the state Constitution and a former city Charter, see *Braedon v. City of Muskogee*, 271 P. 1006 (1928).

Sec. 9:05. Public improvements.

The City may make public improvements with City personnel and equipment or may contract for same. The Council may award contracts for such improvements or it may authorize the City Manager to award such contracts not exceeding an amount prescribed by ordinance and subject to such regulations as the Council may prescribe. Every contract for the construction of public improvements, exceeding a sum ~~prescribed by ordinance, shall be awarded to the lowest and best responsible bidder after such notice and opportunity for competitive bidding is given as the Council, by ordinance, may prescribe.~~ set out in the Public Competitive Bidding Act, 61 O.S. Section 101 et seq. shall be accordance with the provisions of that act. All bids may be rejected pursuant to the provisions in Section ~~9:04~~ 9:03 ~~{9:03}~~ (purchases and sales) paragraph (c). The purchase of supplies, materials and equipment shall not be considered public improvements as the term is used in this Section.

Sec. 9:06. Separability [Severability].

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE X.

TRANSITIONAL PROVISIONS

Sec. 10:01. Officers and employees.

(a) *Rights and Privileges Preserved:* Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) *Continuance of Office of Employment:*

(1) Except as specifically provided by this Charter, if at the time this Charter takes full effect a City Administrative Officer or Employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

(2) Elective officials shall hold their offices until the first election under this Charter, and the new Mayor and Council are elected, qualify and commence their terms as provided by Article II.

(c) *Personnel System:* An employee holding a city position at the time this Charter takes effect, who was serving in that same or a comparable position at the time of the adoption of this Charter, shall not be subject to competitive tests as a condition or continuance in the same position but in all other respects shall be subject to the Personnel Systems provided for in Article IV of this Charter.

Sec. 10:02. Departments, offices and agencies.

(a) *Transfer of Powers:* If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the Council.

(b) *Property and Records:* All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

Sec. 10:03. Pending matters.

All rights, claims, actions, orders, contracts, ordinances, and legal or administrative proceedings shall continue except as modified pursuant to provisions of this Amended Charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this Charter.

Sec. 10:04. State and municipal laws.

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective shall remain in full force and effect, except to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

To the extent that the Constitution and laws of the State of Oklahoma permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.