



MIDWEST CITY ORDINANCE OVERSIGHT COUNCIL COMMITTEE AGENDA

City Hall – Second Floor – City Manager’s Conference Room, 100 N. Midwest Boulevard

July 06, 2023 – 5:30 PM

A. CALL TO ORDER.

B. DISCUSSION ITEMS.

1. Discussion, consideration and possible action to approve the minutes of the February 22, 2023 meeting.
2. Discussion, consideration, and possible action of an ordinance amending the Midwest City Municipal Code, Chapter 2, Administration, Article II, City Council, Section 2-17, Elected Official Accountability Act and Ethics Policy; and Providing for Repealer and Severability.
3. Discussion, consideration, and possible action of approving an ordinance repealing Midwest City Municipal Code, Chapter 4, Air Pollution, Article I, In General, Sections 4-1 through 4-21, Article II, Variances, Sections 4-31 through 4-34 and 4-41 through 4-46; and providing for repealer and severability.
4. Discussion, consideration, and possible action of approving an ordinance amending the Midwest City Municipal Code, Chapter 5 Alcoholic Beverages, Article IV, Occupation Tax, Sections 5-124, Application for certificate of compliance; Investigation, 5-125, Issuance of certificate of zoning and certificate of compliance; and providing for repealer and severability.
5. Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 7 Amusements, Article IV, Circuses and Carnivals, Section 7-51, Health regulations; and providing for repealer and severability.
6. Discussion, consideration, and possible action of approving and ordinance amending Midwest City Municipal Code, Chapter 9, Building and Building Regulations, Article III, Building Code, Section 9-34, Code Amended, Paragraph 118.0, Certificate of Occupancy; and providing for repealer and severability.
7. Discussion, consideration, and possible action of amending Midwest City Municipal Code, Chapter 15 Fire Protection and Prevention, Article IV, Opening Burning, Section 15-109, Commercial open burning; providing for repealer and severability.
8. Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 16 Food and Food Handlers, Article I, In General, Sections 16-2, Food service sanitation manual; 16-5, Sanitary regulations for factories; and Section 16-6, Sterilizing equipment required; providing for repealer and severability.

- [9.](#) Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article I, In General, Section 18-2, Permit, authority for commercial haulers; Section 18-3, Compliance with landfill regulations; creating hazards; Article II, Municipal Collection and Disposal Service, Section 18-26, Sanitation containers at commercial establishments; and providing for repealer and severability.
- [10.](#) Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 19, Health and Sanitation; repealing and placing into reserve Section 19-1, Health Department; amending Section 19-3, Condemnation of insanitary property; and providing for repealer and severability.
- [11.](#) Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers, Manufactured Home Parks, Etc., Article I, In General, Section 23-1, Definitions; Section 23-3, Notice of violations; contents; Section 23-5, Reinspection of conditions; Section 23-6, Inspection of parks authorized; Section 23-9, Written order to be given after hearing; Section 23-11, Hearing authorized when permit denied, suspended, etc.; Section 23-12, Health or inspection officer may take immediate action when emergency exists; Article II, Licenses and Permits, Section 23-25, Application; contents; Section 23-31, Renewal applications; contents; and providing for repealer and severability.
- [12.](#) Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III, Massage, Division 1, In General, Section 31-105, Approval or denial; Division 2, Massage Establishment License, Section 31-113, Facilities and equipment; Division 3, Massage Therapist License, Section 31-131, Application; Division 4, Operating Requirements, Section 31-152, Requirements for cubicles, booth, etc.; and providing for repealer and severability.
- [13.](#) Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article I, In General, Section 32-3, Exceptions for veterans and nonprofit organizations; Section 32-4, Duty of police to enforce; Section 32-5, Loud noises and speaking devices; Article II, Permit, Section 32-25, Fees; health certificates; Article III, Foodstuffs, Section 32-51, Inspections by health department; Section 32-52, Condemning unwholesome food; Article V, Special Events, Section 32-83, Special events defined; Section 32-88, Exemptions; Section 32-95, Health regulations; and providing for repealer and severability.

C. ADJOURNMENT.



DISCUSSION ITEMS



**Ordinance Oversight Council Committee Minutes
Special Meeting**

February 22, 2023

This meeting was held in the second floor conference room of City Hall, City of Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Pat Byrne called the meeting to order at 5:06 PM with Mayor Matt Dukes and Councilmember Susan Eads.

Staff Present: City Manager Tim Lyon, City Attorney Donald Maisch, City Clerk Sara Hancock, Assistant City Manager Vaughn Sullivan, Director of Operations Ryan Rushing, Director of Neighborhood Services Mike Stroh, Director of Engineering and Construction Services Brandon Bundy, Prosecuting Attorney Vicki Floyd, and Animal Welfare Manager Teresa Coplen.

DISCUSSION ITEMS.

- 1. Discussion, consideration and possible action to approve the minutes of the October 18, 2022 meeting.**

Eads made a motion to approve the minutes, as submitted, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 2. Discussion, consideration and possible action of approving the December 19, 2022 meeting minutes.**

Eads made a motion to approve the minutes, as submitted, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 3. Discussion, consideration and possible action approving, an ordinance amending the Midwest City Municipal Code, Chapter 28, Offenses - Miscellaneous; Article IV, Offenses Against Property; Section 28-77, Reserved; and providing for repealer and severability.**

Floyd addressed committee. After Staff and Committee discussion, Eads made a request for Floyd to research EBT payments and update if needed and made a motion to approve, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 4. Discussion, consideration, and possible action of approving an ordinance amending the Midwest City Municipal Code, Chapter 8, Animals and Fowl; Article II, Impoundment of Livestock; Section 8-22, Disposition of Impounded Animals; and Providing for Repealer and Severability.**

Coplen addressed committee. After Staff and Committee discussion, Dukes made a motion to approve, seconded by Eads. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 5. Discussion, consideration, and possible action of approving an ordinance amending the Midwest City Municipal Code, Chapter 8, Animals and Fowl; Article VIII, Animal Welfare Shelter Operation; Section 8-162, Fees; and Providing for Repealer and Severability.**

Coplen addressed committee. After Staff and Committee discussion, Eads made a motion to approve, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

*Recess was taken at 5:18 PM/ Returned at 5:21 PM.

- 6. Discussion, consideration, and possible action of an ordinance amending Midwest City code, Chapter 9, Buildings and Building Regulations; Article V, Mechanical Systems; Section 9-190, Plumbing, gas and mechanical board created; composition; terms; meetings; and providing for repealer and severability.**

Bundy addressed committee. After Staff and Committee discussion, Dukes made a motion to approve, seconded by Eads. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 7. Discussion, consideration, and possible action of an ordinance amending Midwest City code, Chapter 9, Buildings and Building Regulations, Article IV, Section 9-90, National Electric Code Adopted; Section 9-103 Unsafe equipment and usage; Section 9-161 Code Amended; and providing for repealer and severability.**

Bundy addressed committee. After Staff and Committee discussion, Dukes made a motion to approve, seconded by Eads. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 8. An Ordinance Amending Midwest City Code, Chapter 9, Buildings And Building Regulations, Article I, Section 9-4, Incorporated By Reference; Article III, Section 9-31, Code Adopted; Section 9-35, International Residential Code Adopted; Section 9-37, Manufactured Homes; Section 9-39, Existing Structures Code; Section 9-41, Roofing Registration Code; Article V, Section 9-196 Reserved; Section 197 Reserved; Section 198 Reserved; Section 199 Reserved; Section 9-201 Code Adopted; Section 9-205, Separate Permits; Section 9-236 Code Amended; Article VI Section 9-301, Code Adopted; 9-371 Code Amended; and Providing for Repealer and Severability.**

Eads made a motion to approve, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

- 9. Discussion and consideration for adoption, including any possible amendment of an ordinance amending Midwest City code, Chapter 37, Streets and Sidewalks, Article III, Transportation; Division 2, Standards and Requirements; Section 37-65, Street Improvements required by Developers; and providing for repealer and severability.**

Eads made a motion to approve, seconded by Dukes. Voting aye: Dukes, Eads, and Byrne. Nay: none. Motion carried.

10. Discussion of Chapter 9, Article VII Sign Regulations.

Byrne requests staff come up with sign recommendations and give to Lyon. Changes to promote businesses, as well as workable, enforceable and fair.

11. Discussion of Chapter 24-201 and 24-203 – Residential Parking Restrictions, Soft Surface Parking.

Committee requests staff to come up with recommendations and give to Lyon. Workable, enforceable and fair.

12. Discussion of Chapter 27-80 – Abandoned Shopping Carts.

After much discussion between Staff and Committee, Byrne recommended reaching out to Chamber to get a solution and/or cooperation with businesses.

ADJOURNMENT. Chairman Byrne adjourned the meeting at 6:00 PM.

PAT BYRNE, Chairman



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of amending the Midwest City Municipal Code, Chapter 2, Administration, Article II, City Council, Section 2-17, Elected Official Accountability Act and Ethics Policy; and Providing for Repealer and Severability. (D. Maisch – City Attorney).

The proposed changes to Section 2-17 of the City Ordinances are a culmination from an opinion from outside counsel to remove vagueness and make clearer the provisions in Section 2-17. The proposed amendments were drafted by outside counsel and the City Attorney, looking at provisions from other jurisdictions and Oklahoma Appellate Court Opinions.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 Policy, the following words and/or terms shall have the following meanings unless the context
2 clearly indicates otherwise:

3
4 1. “Abusive conduct” means undertaking physical acts upon another City Council
5 Member, City Authority Member, City Board Member, City Committee Member, City
6 Commission Member with either the intent to or actually injuring said Member, or verbal
7 communication direct towards said Member or Members that includes, but is not limited to
8 cursing, name calling, intimidation, coercion, making false statements, making statements
9 unsupported by fact and/or evidence.

10
11 2. “Adjudicative decision” means a decision where the member is called upon to
12 determine and apply facts peculiar to an individual case.

13
14 3. “Advocacy” means the act of pleading, supporting or recommending on a
15 specific topic or action.

16
17 4. “Bias” means a particular tendency, trend, inclination, feeling or opinion,
18 especially one that is preconceived or unreasoned.

19
20 5. “Business entity” means individuals, partnerships, business trusts,
21 cooperatives, associates, corporations, limited liability companies or any other firm, group or
22 concern which functions as a separate entity for business purposes.

23
24 6. “Common good” means betterment of the general public.

25
26 7. “Conduct” means mode of action.

27
28 8. “Conflict-of-Interest” means a clash between the public interest and the private
29 interest of the individual concerned.

30
31 9. “Direct Interest” means an interest that is certain and not contingent or doubtful.

32
33 10. “Family” means, Mother, Father, Spouse, Child (whether natural, adopted or
34 foster), Grandparent, Aunt, Uncle, First Cousin, Brother or Sister.

35
36 11. “Impartiality” means the treating of all issues or persons alike, equitably, fairly
37 and justly.

38
39 12. “Impropriety” means unfitness or unsuitable to character, time, place or
40 circumstances.

41
42 13. “Independence” means freedom from influence or controls other than those
43 established by law.

44
45 14. “Indirect interest” means an interest by an intermediary, other than him/herself.
46

1 15. “Material financial interest” means direct or indirect financial or beneficial
2 financial interest of any kind or an interest that results in or is reasonably expected to return
3 or produce some monetary gain or other material thing of value.

4
5 16. “Member” means a person who has been elected or appointed to the City
6 Council, City Authorities, City Boards, City Committees and City Commissions established
7 by State Statute and/or City ordinance.

8
9 17. “Personal bias” means a bias that is based on a person’s life, relationships, or
10 emotions.

11
12 18. “Personal Conduct” means an individual’s behavior, actions, management of
13 oneself, or deportment.

14
15 19. “Personal Gain” means a benefit received by an individual or member of the
16 individual’s family.

17
18 20. “Policies of the City Council” means those items adopted by a majority of the
19 members of the City Council through resolution or other action that regulates the City Council
20 meetings or actions of City Council members.

21
22 21. “Professional Conduct” means the accepted manner in which an individual in
23 a professional or meeting setting is reasonably expected to act.

24
25 22. “Public Discussion” means that time set aside on the City Council, Board, or
26 Authority agenda where by members of the public may direct comments to the Members of
27 the City Council within the parameters set by the Policies of the City Council.

28
29 23. “Public interest” means the collective well-being of the community, its
30 institutions, its people, its businesses and its professional services.

31
32 24. “Public issues” means issues that impact the citizens of the City of Midwest
33 City directly that are community-based, civically based, or societal based.

34
35 25. “Public meeting” has the same definition as contained in the Oklahoma Open
36 Records Act, Title 51 of the Oklahoma Statutes, Section 24A.1 et seq.

37
38 26. “Receiving information” means obtaining information, whether solicited or
39 not, on a topic or issue either during a City Council meeting or outside a City Council meeting.

40
41 27. “Reproach” means to address another person in such a way as to express
42 disapproval or disappointment.

43
44 28. “Stewardship” means the duties of supervising or taking care of something,
45 such as an organization or property.

1 29. “Substantiated” means a complaint that alleges a violation of either Part (C) and/or
2 Part (D) of this Ordinance has been verified by competent facts and that substantial evidence exists
3 to support.

4
5 30. “Unsubstantiated” means a complaint that alleges a violation of this Ordinance that
6 is not supported by competent facts or substantial evidence or existent of facts and/or an allegation
7 that is not a per se violation of this Ordinance.

8
9 **C. Ethical Standards.** ~~Therefore, members~~ Members of the City Council and of all
10 Authorities, Boards, Committees and Commissions shall conduct themselves in accordance
11 with the following ethical standards:

- 12 1. **Act in the Public Interest.** Recognizing that stewardship of the public interest
13 ~~must~~ shall be their primary concern, members ~~will~~ shall work for the common
14 good of the people of the City of Midwest City and not for any private or
15 personal interest unless said interest is also a public interest, and they ~~will~~ shall
16 assure fair and equal treatment of all persons, claims and transactions coming
17 before them.
- 18
19 2. **Comply with both the spirit and the letter of the Law and City Policy.** Members
20 shall comply with the laws of the ~~nation~~ United States, the State of Oklahoma
21 and the ordinances of the City of Midwest City in the performance of their
22 ~~public~~ duties as established by state law, city charter or city ordinance.
- 23
24 3. **Conduct of Members.** The professional and personal conduct of members while
25 exercising their office ~~must~~ shall be above reproach and avoid even the
26 appearance of impropriety. Members shall refrain from abusive conduct towards
27 other members, ~~and~~ the staff or public.
- 28
29 4. **Respect for Process.** Members shall perform their duties in accordance with the
30 ~~processes and rules of order~~ policies established by the City Council.
- 31
32 5. **Conduct at Public Meetings.** Members shall prepare themselves for public
33 issues; listen courteously and attentively to all public discussions before the
34 body; and focus on the business at hand.
- 35
36 6. **Decisions Based on Merit.** Members shall base their decisions on the merits
37 and substance of the matter at hand, rather than on unrelated considerations.
38 When making adjudicative decisions (~~those decisions where the member is~~
39 ~~called upon to determine and apply facts peculiar to an individual case~~),
40 members shall maintain an open mind until the conclusion of the hearing on
41 the matter and shall base their decisions on the facts presented at the hearing and
42 the law.
- 43
44 7. **Communication.** For adjudicative matters pending before the body, members
45 shall refrain from receiving information outside of an open public meeting or
46 the agenda materials, except on advice of the City Attorney. Members shall

1 publicly disclose substantive information that is relevant to a matter under
2 consideration by the body which they may have received from sources outside
3 of the public decision-making process.
4

- 5 8. **Conflict of Interest.** In order to assure their independence and impartiality on
6 behalf of the common good and compliance with ~~conflict of interest~~ conflict-of-
7 interest laws, members shall use their best efforts to refrain from ~~creating~~
8 an appearance of impropriety in their actions and decisions. Members shall not use
9 their official positions to influence government decisions in which they or a
10 member of his/her ~~immediate~~ family (~~defined as any person related within the~~
11 ~~third degree by blood or marriage to the council member~~) have:

12
13 (a) a material financial interest ~~or on~~ in:

- 14
15 1) any business entity in which the ~~councilmember~~ member has a direct
16 or indirect interest;
17 2) any real property in which the ~~councilmember~~ member has a direct or
18 indirect interest; or
19 3) any business entity in which the ~~councilmember~~ member is a director,
20 officer, partner, trustee or employee, or holds any position of
21 management.,
22

23 (b) an organizational responsibility or personal relationship which may give
24 the appearance of a conflict of interest, or
25

26 (c) a ~~strong~~ personal bias.
27

28 A member who has a potential conflict of interest regarding a particular
29 decision shall disclose the matter to the City Attorney and/or City Manager and
30 reasonably cooperate with the City Attorney to analyze the potential conflict.
31 ~~If advised by the City Attorney to seek advice from appropriate state agency,~~
32 ~~a member shall not participate in a decision unless and until he or she has~~
33 ~~requested and received advice allowing the member to participate. A~~
34 ~~member shall diligently pursue obtaining such advice. The member shall~~
35 ~~provide the City Manager and the City Attorney a copy of any written request~~
36 ~~or advice, and conform his or her participation to the advice given. In~~
37 ~~providing assistance to members, the City Attorney represents the City and~~
38 ~~not individual members.~~

39
40 In accordance with the law, members shall disclose investments, interests in
41 real property, sources of income, and gifts to the City Attorney and City
42 Manager; and if they have a conflict of interest regarding a particular
43 decision, shall not, once the conflict is ascertained, participate in the decision
44 and shall not discuss or comment on the matter in any way to any person
45 including other members unless otherwise permitted by law, failure to comply
46 may lead to conduct being reported to the District Attorney.

1
2 9. **Gifts and Favors.** Members shall not take any special advantage of services or
3 opportunities for personal gain, by virtue of their public office that is not
4 available to the public in general. ~~They~~ Members shall refrain from accepting
5 any gifts, favors or promises of future benefits which ~~might compromise~~
6 compromises their independence of judgment or action or give the appearance
7 of being compromised.

8
9 No member ~~of the council~~ shall receive any payments or gifts, other than those
10 provided in the Charter or in the Code of Ordinances, for action or inaction in
11 his/her ~~elected~~ official capacity.

12
13 10. **Confidential Information.** Members ~~must~~ shall maintain the confidentiality of
14 all written materials and verbal information provided to members which is
15 confidential or privileged. No member ~~of the council~~ shall disclose confidential
16 discussions occurring in executive session with anyone other than other
17 ~~councilmember~~ member or invited staff/guests. Members shall neither disclose
18 confidential information without proper legal authorization, nor use such
19 information to advance their personal, financial or other private interests, nor shall
20 any member ~~of the council~~ make, participate in making, or in any way attempt to
21 use his/her official position to influence the making of any decision that ~~s/he~~ the
22 member knows or should know will have a reasonably foreseeable material financial
23 effect, on the member ~~of the council~~ or a member ~~of his/her immediate~~
24 ~~(defined as any person related within the third degree by blood or marriage to the~~
25 ~~councilmember)~~ or on:

- 26
27 1) Any business entity in which the ~~council~~ member has a direct or indirect
28 interest;
- 29 2) Any real property in which the ~~council~~ member has a direct or indirect
30 interest; or
- 31 3) Any business entity in which the ~~council~~ member is a director, officer,
32 partner, trustee or employee, or holds any position of management.

33 11. **Use of Public Resources.** Members shall not use public resources which are
34 not available to the public in general (e.g., City staff time, equipment, supplies
35 or facilities) for private gain or for personal purposes not otherwise authorized
36 by law.

37
38 12. **Representation of Private Interests.** In keeping with their role as stewards of
39 the public interest, members ~~of Council~~ shall not appear on behalf of the
40 private interests of third parties before the Council or any Authority, Board,
41 Committee, Commission or proceeding of the City, ~~nor shall members of~~
42 ~~Boards, Committees and Commissions appear before their own bodies or before~~
43 ~~the Council on behalf of the private interests of third parties on matters related~~
44 ~~to the areas of service of their bodies.~~

1 13. **Advocacy.** Members shall represent the official policies or positions of the City
2 Council, Authority, Board, Committee or Commission to the best of their ability
3 when designated as delegates for this purpose. When presenting their individual
4 opinions and positions, members shall explicitly state they do not represent their
5 body or the City of Midwest City, nor will they allow the inference that they do.
6 Councilmembers and Authority, Board, Committee and Commission members
7 have the right to endorse candidates for all Council seats or other elected offices.
8 It is inappropriate to mention or display endorsements during Council meetings,
9 or Authority, Board, Committee and Commission meetings, or other official City
10 meetings.

11
12 14. **Policy Role of Members.** Members shall respect and adhere to the council-
13 manager structure of City of Midwest City government as outlined in the
14 Midwest City Code. In this structure, the City Council determines the policies
15 of the City with the advice, information and analysis provided by City staff,
16 Authorities, Boards, Committees and Commissions, and the public. Except as
17 provided by the City Code, members shall not interfere with the administrative
18 functions of the City or the professional duties of City staff; nor shall they impair
19 the ability of staff to implement Council policy decisions.
20

21 15. **Independence of Boards, Committees and Commissions.** Because of the
22 value of the independent advice of Authorities, Boards, Committees and
23 Commissions to the public decision-making process, members of City Council
24 shall refrain from using their position to unduly influence the deliberations or
25 outcomes of Authorities, Board, Committee and Commission proceedings.
26

27 16. **Positive Work Place Environment.** Members shall support the maintenance of
28 a positive and constructive work place environment for City employees and for
29 citizens and businesses dealing with the City. Members shall recognize their
30 special role in dealings with City employees to in no way create the perception
31 of inappropriate direction to staff.
32

33 (a) Unless the request is otherwise authorized by law, if a member requests research
34 or other work by City staff, such requests shall be directed to the City Manager, unless
35 the request is for legal research, then the request shall be directed to the City Attorney.
36

37 (b) If the request, pursuant to paragraph (C)(16)(a) above, will take more than one
38 (1) hour of staff time to complete, then the request shall be placed on the next
39 available City Council Agenda. The City Council shall consider and determine
40 whether staff time shall be devoted to the request.
41

42 (c) Any response from City staff to a request pursuant to paragraph (C)(16)(a) above,
43 shall be distributed to all members of the City Council.
44

45 (d) Members shall not attempt to pressure or influence discussions,
46 recommendations, workloads, schedules or priorities of City staff. A violation of

1 this provision is also hereby deemed to be a violation of Article II, Section 6 of the
2 Charter for the City of Midwest City.

3
4 **17. Elections.** No member of the council or candidate for council shall receive more
5 than an amount established by state law in monetary or in-kind donations for
6 each council election for which the member of council or candidate seeks office.

7
8 **~~B. CONDUCT GUIDELINES~~**

9
10 **D. Guidelines for Conduct**

11
12 The ~~Conduct Guidelines~~ following guidelines are designed to describe the manner in which
13 elected and appointed officials should treat one another, City staff, constituents, and others
14 they come into contact with while representing the City of Midwest City.

15
16 **1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings**

17
18 Elected and appointed officials are individuals with a wide variety of backgrounds,
19 personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve
20 in public office in order to preserve and protect the present and the future of the
21 community. In all cases, this common goal should be acknowledged even though
22 individuals may not agree on every issue.

23
24 *(a) Honor the role of the chair in maintaining order*

25 It is the responsibility of the chair to keep the comments of members on track
26 during public meetings. Members should honor efforts by the chair to focus
27 discussion on current agenda items. If there is disagreement about the agenda
28 or the chair's actions, those objections should be voiced politely and with
29 reason, following procedures outlined in parliamentary procedure.

30
31 *(b) Practice civility and decorum in discussions and debate*

32 Difficult questions, tough challenges to a particular point of view, and criticism
33 of ideas and information are legitimate elements of debate by a free democracy
34 in action. Free debate does not require nor justify the making of, however,
35 ~~public officials to make~~ belligerent, personal, impertinent, slanderous,
36 threatening, abusive, or disparaging comments.

37
38 *(c) Avoid personal comments that could offend other members*

39 If a member is personally offended by the remarks of another member, the offended
40 member should make notes of the actual words used and call for a "point of
41 personal privilege" that challenges the other member to justify or apologize for
42 the language used. The chair will maintain control of this discussion.

43
44 *(d) Demonstrate effective problem-solving approaches*

45 Members have a public stage and have the responsibility to show how individuals
46 with disparate points of view can find common ground and seek a compromise

1 that benefits the community as a whole.

2
3 **2. Elected and Appointed Officials' Conduct with the Public in Public Meetings**
4

5 Making the public feel welcome is an important part of the democratic process. No
6 signs of partiality, prejudice or disrespect should be evident on the part of individual
7 members toward an individual participating in a public forum. Every effort should be
8 made to be fair and impartial in listening to public testimony or comment.
9

10 (a) *Be welcoming to speakers and treat them with care and gentleness.*
11 While questions of clarification may be asked, the official's primary
12 role ~~during public testimony~~ is to listen.
13

14 (b) *Be fair and equitable in allocating public hearing time to individual*
15 *speakers.*

16 The chair will ~~determine and~~ announce time limits ~~on~~ for speakers at the
17 start of ~~the public hearing process~~ testimony or comment in accordance
18 with the policies established by the City Council.
19

20 (c) *Practice active listening*

21 It is disconcerting to speakers to have members not look at them when
22 they are speaking.
23

24 (d) *Maintain an open mind*

25 Members of the public deserve an opportunity to influence the thinking
26 of elected and appointed officials.
27

28 (e) *Ask for clarification, but avoid debate and argument with the public*

29 Only the chair - not individual members - can interrupt a speaker during
30 a presentation. However, a member can ask the chair for a point of order
31 if the speaker is off the topic or exhibiting behavior or language the
32 member finds disturbing.
33

34 **3. Elected and Appointed Officials' Conduct with City Staff**
35

36 Governance of a City relies on the cooperative efforts of elected officials, who set
37 policy, appointed officials who advise the elected, and City staff who implement and
38 administer the Council's policies. Therefore, every effort should be made to be
39 cooperative and show mutual respect for the contributions made by each individual for
40 the good of the community.
41

42 (a) *Treat all staff as professionals*

43 Clear, honest communication that respects the abilities, experience, and
44 dignity of each individual is expected. Poor behavior towards staff is not
45 acceptable.
46

47 (b) *Do not disrupt City staff from their jobs*

1 Elected and appointed officials should not disrupt City staff while they
2 are in meetings, on the phone, or engrossed in performing their job functions
3 in order to have their individual needs met. Do not attend City staff meetings
4 unless requested by staff- even if the elected or appointed official does not
5 say anything, his or her presence implies support, shows partiality, may
6 intimidate staff, and hampers staffs ability to do their job objectively.
7

8 (c) *Never publicly criticize an individual employee*

9 Elected and appointed officials should never express concerns about the
10 performance of a City employee in public, to the employee directly, or to
11 the employee's manager. Comments about staff performance should only be
12 made to the City Manager through private correspondence or conversation.
13 Appointed officials should make their comments regarding staff to the City
14 Manager.
15

16 (d) *Do not get involved in administrative functions*

17 Elected and appointed officials acting in their individual capacity must not
18 attempt to influence City staff on the making of appointments, awarding
19 of contracts, selecting of consultants, processing of development
20 applications, or granting of City licenses and permits.
21

22 (e) *Do not solicit political support from staff*

23 Elected and appointed officials should not solicit any type of political
24 support (financial contributions, display of posters or lawn signs, name on
25 support list, etc.) from City staff. City staff may, as private citizens with
26 constitutional rights, support political candidates but all such activities
27 must be done away from the workplace.
28

29 (f) *No Attorney-Client Relationship*

30 Members shall not seek to establish an attorney-client relationship with the
31 City Attorney, including his or her staff and attorneys contracted to work on
32 behalf of the City. The City Attorney represents the City and not
33 individual members. Members who consult with the City Attorney cannot
34 enjoy or establish an attorney-client relationship with the attorney.
35

36 (g) *Council Member Must Resign*

37 If a sitting council member intends to apply for a full time or part time
38 position with the City of Midwest City, he/she must resign from the council
39 before applying for that position.
40

41 **4. Council Conduct with Boards, Committees and Commissions**
42

43 The City has established several Boards, Committees and Commissions as a means of
44 gathering more community input. Citizens who serve on Boards, Committees and
45 Commissions become more involved in government and serve as advisors to the City
46 Council. They are a valuable resource to the City's leadership and should be treated

1 with appreciation and respect.

2
3 (a) *If attending a Board, Committee or Commission meeting, be careful to only*
4 *express personal opinions.*

5 Councilmembers may attend any Board, Committee or Commission
6 meeting, which are always open to any member of the public. However, they
7 should be sensitive to the way their participation - especially if it is on
8 behalf of an individual, business or developer - could be viewed as unfairly
9 affecting the process. Any public comments by a Councilmember at a Board,
10 Committee or Commission meeting should be clearly made as individual
11 opinion and not a representation of the feelings of the entire City Council.
12

13 (b) *Limit contact with Board, Committee and Commission members to*
14 *questions of clarification*

15 It is inappropriate for a Councilmember to contact a Board, Committee or
16 Commission member to lobby on behalf of an individual, business, or
17 developer, and vice versa. [It is acceptable for Councilmembers to contact
18 Board, Committee or Commission members in order to clarify a position
19 taken by the Board, Committee or Commission.
20

21 (c) *Respect that Boards, Committees and Commissions serve the community,*
22 *not individual Councilmembers*

23 The City Council appoints individuals to serve on Boards, Committees and
24 Commissions, and it is the responsibility of Boards, Committees and
25 Commissions to follow policy established by the Council. But Board,
26 Committee and Commission members do not report to individual
27 Councilmembers, nor should Councilmembers feel they have the power or
28 right to threaten Board, Committee and Commission members with removal
29 if they disagree about an issue. Appointment and re-appointment to a Board,
30 Committee or Commission should be based on such criteria as expertise,
31 ability to work with staff and the public, and commitment to fulfilling official
32 duties. A Board, Committee or Commission appointment should not be
33 used as a political "reward."
34

35 (d) *Be respectful of diverse opinions*

36 A primary role of Boards, Committees and Commissions is to represent
37 many points of view in the community and to provide the Council with
38 advice based on a full spectrum of concerns and perspectives.
39 Councilmembers may have a closer working relationship with some
40 individuals serving on Boards, Committees and Commissions, but must
41 be fair and respectful of all citizens serving on Boards, Committees and
42 Commissions.
43

44 (e) *Keep political support away from public forums*

45 Board, Committee and Commission members may offer political support
46 to a Councilmember, but not in a public forum while conducting official

1 duties. Conversely, Councilmembers may support Board, Committee and
2 Commission members who are running for office, but not in an official
3 forum in their capacity as a Councilmember.
4

5 ~~C. VIOLATION~~

6
7 E. Enforcement Procedures.
8

9 1. If a member believes another member has violated any of the requirements of Part
10 (C) or the recommendations of Part (D) above, that member may choose to discuss the matter with
11 the other member in an informal setting to resolve any issue.
12

13 2. Any person may file a formal complaint concerning the actions of a member that
14 appears to be a violation of Parts (C) or (D) above. Said complaint shall be in writing and initially
15 submitted to the City Attorney. Upon receipt of a formal written complaint, the City Attorney
16 shall forward the complaint to the City Manager. The City Manager and City Attorney shall advise
17 the City Council of the receipt of a formal complaint in Executive Session.
18

19 3. There is hereby established an Ethics Review Officer to review any formal written
20 complaints. The Ethics Review officer shall be appointed by the Mayor and be a former mayor
21 for the City of Midwest City. If a former mayor is not available or is unwilling to serve, then a
22 former vice-mayor of the City of Midwest City shall be appointed, if a former vice-mayor is not
23 available or is unwilling to serve, then a former City Council Member of the City of Midwest City
24 shall be appointed to serve.
25

26 4. The City Manager is hereby authorized to enter into contracts with the appointed
27 Ethics Review Officer for their services. The contract will set an hourly rate for said services.
28

29 5. Upon review of a formal written complaint by the City Manager and the City
30 Attorney, the City Manager shall contact the Ethics Review Officer concerning the complaint and
31 the City Attorney shall forward a copy of the complaint to the Ethics Review Officer.
32

33 6. The Ethics Review Officer shall investigate the complaint to determine if the
34 complaint is substantiated or unsubstantiated. The Ethics Review Officer shall have all the
35 resources that the City of Midwest City has available to undertake the investigation. The Ethics
36 Review Officer, City Manager and City Attorney shall establish timelines for the completion of
37 the investigation and issuance of a written report based on the types and complexity of issues raised
38 in the complaint. The City Manager shall notify the members of the City Council concerning the
39 timeline established.
40

41 7. Upon completion of the investigation, the Ethics Review Officer shall issue a
42 written report of its findings and recommendations on each issue raised in the complaint, whether
43 that issue is substantiated or unsubstantiated, the reasoning for the finding and any
44 recommendations as to a resolution based on the options listed in Paragraphs (E)(9), (E)(10), or
45 (E)(11) of this City Ordinance.
46

1 8. If the Ethics Review Officer finds that the complaint is unsubstantiated, the report
2 shall be submitted to the City Manager and City Attorney. The City Attorney shall forward the
3 findings of the Ethics Review Officer to the complainant and the member who the complaint was
4 filed against. If the Ethics Review Officer finds two consecutive complaints from the same
5 complainant against the same member as unsubstantiated, then the City Attorney shall not forward
6 any future complaints from the complainant concerning the member to either the City Manager or
7 the Ethics Review Officer. The City Council shall be notified by the City Manager of the findings
8 in the report from the Ethics Review Officer;

9
10 9. If the complaint concerns issues with recommendations contained in Part (D) above
11 only, and the investigation by the Ethics Review Officer finds the complaint is substantiated, the
12 Ethics Review Officer Report shall be submitted to the City Manager and City Attorney. The City
13 Manager shall place the Report on the City Council Agenda for Executive Session. The City
14 Attorney shall forward the Report to the complainant, member who the complaint is filed against
15 and the members of the City Council. During the Executive Session of the City Council meeting
16 the complainant and the member who the complaint was filed against shall be invited to appear.
17 The Report shall be discussed and either no action and/or oral counselling shall be provided or
18 occur during the Executive Session.

19
20 10. If the complaint concerns issues with recommendations contained in Part (D) above
21 and requirements contained in Part (C) above, and only the issues identified in Part (D) above are
22 substantiated, then the processes contained in Paragraph (E)(9) of this City Ordinance shall be
23 followed.

24
25 11. If the complaint concerns issues with the requirements contained in Part (C) above
26 only, or recommendations contained in Part (D) above and requirements contained in Part (C)
27 above combined and the issues contained in Part (C) are substantiated, the Ethics Review Officer
28 Report shall be submitted to the City Manager and City Attorney. The City Manager shall place
29 the Report on the City Council Agenda for Executive Session. The City Attorney shall forward
30 the Report to the complainant, member who the complaint is filed against and the members of the
31 City Council. During the Executive Session of the City Council meeting the complainant, the
32 Ethics Review Officer and the member who the complaint was filed against shall be invited to
33 appear. The Report shall be discussed during the Executive Session. The City Council may vote
34 to resolve the complaint based on the recommendations of the Ethics Review Officer or different
35 than the recommendations of the Ethics Review Officer, which may include but not be limited to:

- 36
37 a. take no action;
38 b. oral counselling;
39 c. written counselling;
40 d. written reprimand;
41 e. censure; or
42 f. referral to the Oklahoma County District Attorney and/or Oklahoma
43 Attorney General for appropriate action pursuant to state law.

44
45 The vote by the members of the City Council shall occur in open meeting and may include one or
46 more of the possible resolutions to the complaint.

1
2 12. If there is a subsequent complaint received on a member based on the same or
3 similar issues that has been previously substantiated and the investigation into the subsequent
4 complaint results in a substantiated finding, the resolution to the complaint can be no less than what
5 the City Council voted and approved on the previous complaint.
6

7 ~~Councilmembers: Councilmembers who intentionally and repeatedly do not follow proper~~
8 ~~conduct may be reprimanded or formally censured by the Council, lose seniority or committee~~
9 ~~assignments (both within the City of Midwest City and with intergovernmental agencies) or~~
10 ~~other privileges afforded by the Council. Serious infractions of the Code of Ethics or Code of~~
11 ~~Conduct could lead to other sanctions as deemed appropriate by the Council.~~
12

13 ~~Individual Councilmembers should point out to the offending Councilmember perceived~~
14 ~~infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should~~
15 ~~be referred to the Mayor in private. If the Mayor is the individual whose actions are being~~
16 ~~questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of~~
17 ~~the Mayor (or Vice Mayor) to initiate action if a Councilmember's behavior may warrant~~
18 ~~sanction. If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can~~
19 ~~be brought up with the full Council.~~
20

21 ~~Board, Committee and Commission Members: Counseling, verbal reprimands and written~~
22 ~~warnings may be administered by the Mayor to Board, Committee and Commission members~~
23 ~~failing to comply with City policy. These lower levels of sanctions shall be kept private to the~~
24 ~~degree allowed by law. Copies of all written reprimands administered by the Mayor shall be~~
25 ~~distributed in memo format to the chair of the respective Board, Committee or Commission,~~
26 ~~the City Clerk, the City Attorney, the City Manager, and the City Council.~~
27

28 ~~The City Council may impose sanctions on Board, Committee and Commission~~
29 ~~members whose conduct does not comply with the policies and/or rules for said Boards,~~
30 ~~Committees or Commissions, up to and including removal from office. Any form of~~
31 ~~discipline imposed by Council shall be determined by a majority vote of at least a quorum~~
32 ~~of the Council at a noticed public meeting and such action shall be preceded by a Report~~
33 ~~to Council with supporting documentation.~~
34

35 ~~When deemed warranted, the Mayor or majority of Council may call for an investigation~~
36 ~~of Board, Committee or Commission member conduct. Also, should the City Manager or~~
37 ~~City Attorney believe an investigation is warranted, they shall confer with the Mayor or~~
38 ~~Council. The Mayor or Council shall ask the City Manager or the City Attorney to~~
39 ~~investigate the allegation and report the findings.~~
40

41 ~~These sanctions are alternatives to any other remedy that might otherwise be available to~~
42 ~~remedy conduct that violates this code or state or federal law. In order to protect and~~
43 ~~preserve good government, any individual including the City Manager and the City Attorney~~
44 ~~after complying with Rule 1.13 of the State Bar Rules of Professional Conduct, who knows~~
45 ~~or reasonably believes a member acts or intends or refuses to act in a manner that is or may~~
46 ~~be a violation of law reasonably imputable to the organization, or in a manner which is~~

1 likely to result in substantial injury to the organization, may report the violation to the
2 appropriate governmental authorities.

3
4 ~~A violation of any item listed in the Ethics Code, section A, shall be a misdemeanor punishable~~
5 ~~upon conviction by a fine, the amount of which shall be five hundred dollars (\$500.00).~~
6 ~~Any person convicted of a violation of this section shall immediately be removed from~~
7 ~~office and shall forever be disqualified from filing for or holding a city elective office.~~

8
9 **Section 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
10 repealed.

11
12 **Section 3.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
13 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
14 of the ordinance.

15
16 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
17 Oklahoma, this _____ day of _____, 2023.

18
19 **THE CITY OF MIDWEST CITY, OKLAHOMA**

20
21
22 _____
23 MATTHEW D. DUKES, II, Mayor

24
25 ATTEST:

26
27
28 _____
29 SARA HANCOCK, City Clerk

30
31
32 Approved as to form and legality this _____ day of _____, 2023.

33
34
35 _____
36 DONALD D. MAISCH, City Attorney

1 **Section 8.** EMERGENCY. The City Council declares these ordinance amendments to be an
2 emergency, it being immediately necessary for the preservation of the peace, health and safety of
3 the City of Midwest City and the inhabitants thereof that the provisions of this ordinance be put
4 into full force and effect, an emergency is hereby declared to exist by reason whereof this
5 ordinance shall take effect and be in full force from and after its passage as provided by law.

6
7 EMERGENCY CLAUSE PASSED AND APPROVED by the Mayor and the Council of the City
8 of Midwest City, Oklahoma, this _____ day of _____, 2023.

9
10 **THE CITY OF MIDWEST CITY, OKLAHOMA**

11
12
13 _____
14 MATTHEW D. DUKES, II, Mayor

15
16 ATTEST:

17
18
19 _____
20 SARA HANCOCK, City Clerk

21
22
23 Approved as to form and legality this _____ day of _____, 2023.

24
25
26 _____
27 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance repealing Midwest City Municipal Code, Chapter 4, Air Pollution, Article I, In General, Sections 4-1 through 4-21, Article II, Variances, Sections 4-31 through 4-34 and 4-41 through 4-46; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed repeal to Sections listed above are recommended by the Oklahoma City-County Health Department as jurisdiction of the issues covered by these amendments are now under the jurisdiction of the Oklahoma Department of Environmental Quality.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

ORDINANCE NO. _____

AN ORDINANCE REPEALING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 4 AIR POLLUTION; ARTICLE I, IN GENERAL; SECTIONS 4-1 THROUGH 4-21, ARTICLE II, VARIANCES; SECTIONS 4-31 THROUGH 4-34 AND 4-41 THROUGH 4-46; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

ORDINANCE

Section 1. That the Midwest City Municipal Code, Chapter 4 Air Pollution , the following specific sections are hereby repealed and the section number placed in reserve:

- Midwest City Ordinance, Chapter 4, Article I, Sections 4-1 through 4-21;
- Midwest City Ordinance, Chapter 4, Article II, Division 1, Sections 4-31 through 4-34;
- Midwest City Ordinance, Chapter 4, Article II, Division 2, Sections 4-41 through 4-46.

Section 2. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of the ordinance.

PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City, Oklahoma, this _____ day of _____, 2023.

THE CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

Approved as to form and legality this ____ day of _____, 2023.

DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending the Midwest City Municipal Code, Chapter 5 Alcoholic Beverages, Article IV, Occupation Tax, Sections 5-124, Application for certificate of compliance and Section 5-125, Issuance of certificate of zoning and certificate of compliance. (D. Maisch – City Attorney).

The proposed changes to Sections 5-124 and 5-125 specifies that applications are submitted to the City Manager or designee and any issuance of a certificate are signed by the City Manager or designee.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 **ORDINANCE NO. _____**
2

3 AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 5
4 ALCOHOLIC BEVERAGES, ARTICLE IV, OCCUPATION TAX, SECTIONS 5-124,
5 APPLICATION FOR CERTIFICATE OF COMPLIANCE; INVESTIGATIONS, 5-125,
6 ISSUANCE OF CERTIFICATE OF ZONING AND CERTIFICATE OF COMPLIANCE; AND
7 PROVIDING FOR REPEALER AND SEVERABILITY.

8
9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:
10

11 **ORDINANCE**
12

13 **Section 1.** That the Midwest City Municipal Code, Chapter 5 Alcoholic Beverages, Article IV,
14 Occupational Tax, Section 5-124, Application for certificate of compliance; investigations; is
15 hereby amended to read as follows:
16

17 **5-124, Application for certificate of compliance and/or certificate of zoning;**
18 **investigations.**
19

20 (a) Every applicant for a certificate of compliance and/or certificate of zoning to determine
21 compliance with the zoning, fire, health and safety codes of the City of Midwest City, as required
22 by Title ~~37~~ 37A of the Oklahoma Statutes shall apply ~~at the office of the city clerk~~ by filing a
23 written application on forms ~~prescribed by that office~~ provided by the Community Development
24 Department.
25

26 (b) Upon receipt of an application for a certificate of compliance and/or certificate of zoning,
27 ~~the city clerk~~ notification of the application shall be sent to the City Manager or designee, who
28 shall cause an investigation to be made to determine whether the premises proposed for licensed
29 operations comply with the provisions of the zoning ordinance and any health, fire, building and
30 other safety codes applicable to it.
31

32 (c) The ~~city clerk~~ City Manager, or designee, shall act on all such applications within ~~twenty~~
33 ~~(20)~~ thirty (30) days of receipt thereof.
34

35 **Section 2.** That the Midwest City Municipal Code, Chapter 5 Alcoholic Beverages, Article IV,
36 Occupational Tax, Section 5-125, Issuance of certificate of zoning and certificate of compliance;
37 is hereby amended to read as follows:
38

39 **5-125, Issuance of certificate of zoning and certificate of compliance.**
40

41 (a) Upon finding that the premises of an applicant for a certificate is in compliance with all
42 applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE Commission.
43

1 (b) Upon finding that the premises of an applicant for a certificate is in compliance with all
2 applicable fire, safety, and health codes, a certificate of compliance shall be issued to the ABLE
3 Commission.

4
5 (c) The above certificates of compliance shall be signed by the mayor or ~~city clerk~~ the City
6 Manager or the designee of the City Manager.

7
8 **Section 3.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
9 repealed.

10
11 **Section 4.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
12 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
13 of the ordinance.

14
15 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
16 Oklahoma, this _____ day of _____, 2023.

17
18 **THE CITY OF MIDWEST CITY, OKLAHOMA**

19
20
21 _____
22 MATTHEW D. DUKES, II, Mayor

23
24 ATTEST:

25
26
27 _____
28 SARA HANCOCK, City Clerk

29
30
31 Approved as to form and legality this _____ day of _____, 2023.

32
33
34 _____
35 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of amending Midwest City Municipal Code, Chapter 7 Amusements, Article IV, Circuses and Carnivals, Section 7-51, Health regulations; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendment to Section 7-51 will require Mobile Food Trucks to be licensed by the Oklahoma City-County Health Department and the City of Midwest City before operating at a Circus and/or Carnival.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 **ORDINANCE NO.** _____

2
3 AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 7
4 AMUSEMENTS, ARTICLE IV, CIRCUSES AND CARNIVALS, SECTION 7-51, HEALTH
5 REGULATIONS; AND PROVIDING FOR REPEALER AND SEVERABILITY.

6
7 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:
8

9 **ORDINANCE**

10
11 **Section 1.** That the Midwest City Municipal Code, Chapter 7 Amusements, Article IV, Circuses
12 and Carnivals, Section 7-51, Health regulations; is hereby amended to read as follows:
13

14 **Section 7-51. Health Regulations**

15
16 All circuses and carnivals shall comply with all city-county health regulations and other
17 recognized health practices. Mobile food trucks shall be licensed by the Oklahoma City-County
18 Health Department and the City of Midwest City before commencing any hook ups or operations
19 at a circus or carnival. Food handlers shall have a health card showing them to be free from
20 communicable diseases, which card shall not be more than six (6) months old, issued by ~~some~~ a
21 recognized official of the city, state or county agency. The city reserves the right to revoke this
22 license for noncompliance with such health regulations immediately and without notice.
23

24 **Section 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
25 repealed.
26

27 **Section 3.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
28 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
29 of the ordinance.
30

31 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
32 Oklahoma, this _____ day of _____, 2023.
33

34 **THE CITY OF MIDWEST CITY, OKLAHOMA**

35
36
37 ATTEST:

MATTHEW D. DUKES, II, Mayor

38
39
40 _____
41 SARA HANCOCK, City Clerk
42
43

44 Approved as to form and legality this _____ day of _____, 2023.
45
46 _____
47 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of amending Midwest City Municipal Code, Chapter 9, Building and Building Regulations, Article III, Building Code, Section 9-34, Code Amended, Paragraph 118.0, Certificate of Occupancy; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendment to Section 9-34 will require submission to the City of Midwest City of all required federal and/or state permits or licenses before the issuance of a Certificate of Occupancy.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 (c) The building official shall have the authority to deny applications for renewal of temporary
2 certificates of occupancy. Upon denial of the application for renewal of a temporary certificate
3 of occupancy, the building official shall give written notice to the applicant that the utility
4 services to the premises shall be disconnected if operations have not ceased within ten (10) days
5 after receipt of the notice of denial of the temporary certificate of occupancy. Notice shall be
6 delivered in person or by certified mail, return receipt, within ten (10) days of the denial.
7

8 (d) One- and two-family residences are exempt from the requirements of this section.
9

10 **Section 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
11 repealed.
12

13 **Section 3.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
14 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
15 of the ordinance.
16

17 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
18 Oklahoma, this _____ day of _____, 2023.
19

20 **THE CITY OF MIDWEST CITY, OKLAHOMA**
21

22
23 _____
24 MATTHEW D. DUKES, II, Mayor
25

26 ATTEST:
27

28
29 _____
30 SARA HANCOCK, City Clerk
31

32
33 Approved as to form and legality this _____ day of _____, 2023.
34
35

36 _____
37 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of amending Midwest City Municipal Code, Chapter 15 Fire Protection and Prevention, Article IV, Opening Burning, Section 15-109, Commercial open burning; providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendment to Section 15-109 allows the issuance of commercial burning permits may allow overnight burning when approved by the Midwest City Fire Department (this provision was moved from Chapter 4, which was repealed).

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

THE CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

Approved as to form and legality this ____ day of _____, 2023.

DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 16 Food and Food Handlers, Article I, In General, Sections 16-2, Food service sanitation manual; 16-5, Sanitary regulations for factories; and Section 16-6, Sterilizing equipment required; providing repealer and severability. (D. Maisch – City Attorney).

The proposed amendments to Sections 16-2, 16-5 and 16-6 are recommended by the Oklahoma City-County Health Department and are designating the proper citations in state law.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 and ceilings of such rooms shall be of material easily cleaned, free from roughness and ledges,
2 and shall be kept well painted or limewashed.

3
4 (2) All outer openings shall be screened with not less than No. 16 mesh screen, all doors
5 shall be equipped with self-closing devices, and adequate ventilation and lighting shall be
6 provided by windows or artificial means.

7
8 (3) Toilets, lavatories and necessary appurtenances thereto shall be provided for
9 employees. All toilets, dressing rooms and clothes lockers shall be entirely separate from rooms
10 in which food products are prepared or stored, and shall be ventilated to the outer air by means
11 of windows, air ducts or mechanical apparatus; all doors leading thereto shall be self-closing.
12 Each toilet or dressing room shall be equipped with a lavatory having running water and clean
13 towels and soap shall be provided therein.

14
15 (4) All tubs, vats, mixers, kettles, machines, slabs or other fixtures or utensils used
16 directly in the manufacture of food products shall be thoroughly cleansed after each use and
17 sterilized before any further use. All floors, woodwork, walls, ceiling and windows shall be kept
18 in a clean and sanitary condition at all times. All raw or finished products shall be protected from
19 dust, flies or other contaminating influences by covers or other adequate protection. All
20 containers of milk and cream shall be rinsed and drained immediately upon removal of the
21 contents. Garbage or any other unnecessary article shall not be kept in manufacturing rooms. All
22 garbage and refuse shall be kept in impervious containers and removed daily. No rusted, dented
23 or defective container shall be used.

24
25 **Section 3.** That the Midwest City Municipal Code, Chapter 16, Food and Food Handlers, Article
26 I, In General, Section 16-6, Sterilizing equipment required, is hereby amended to read as follows:

27 **Section 16-6, Sterilizing equipment required.**
28

29 Each establishment used for the manufacture and sale of food products shall be in
30 compliance with the requirements contained at Title 63 of the Oklahoma Statutes, Section 1-
31 1101 et seq., and at Title 310 of the Oklahoma Administrative Code, Chapters 257 and 260,
32 including but not limited to: equipped with sanitary washing and sterilizing equipment for all
33 containers, utensils, machines, tubs, vats, piping or other fixtures coming in contact with raw or
34 finished products.

35
36 **Section 4. REPEALER.** All other ordinances or parts of ordinances in conflict herewith are
37 hereby repealed.

38
39 **Section 5. SEVERABILITY.** If any section, sentence, clause, or portion of this ordinance is for
40 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
41 of the ordinance.

42
43 Ordinance Amendments PASSED AND APPROVED by the Mayor and the Council of the City
44 of Midwest City, Oklahoma, this _____ day of _____, 2023.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

THE CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

Approved as to form and legality this ____ day of _____, 2023.

DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving and ordinance amending the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article I, In General, Section 18-2, Permit, authority for commercial haulers; Section 18-3, Compliance with landfill regulations; creating hazards; Article II, Municipal Collection and Disposal Service, Section 18-26, Sanitation containers at commercial establishments; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendments to Sections 18-2, 18-3 and 18-6 are recommended by the Oklahoma City-County Health Department and are transferring the enforcement from the City-County Health Department and utilities superintendent to either the DEQ or the Public Works Director for the City of Midwest City or designee.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 18 GARBAGE AND REFUSE; ARTICLE I, IN GENERAL; SECTIONS 18-2, PERMIT, AUTHORITY FOR COMMERCIAL HAULERS; VEHICLES 18-3, COMPLIANCE WITH LANDFILL REGULATIONS; CREATING HAZARDS; ARTICLE II, MUNICIPAL COLLECTION AND DISPOSAL SERVICE; SECTION 18-26, SANITATION CONTAINERS AT COMMERCIAL ESTABLISHMENTS; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

ORDINANCE

Section 1. That the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article I, In General, Section 18-2, Permit, authority for commercial haulers; is hereby amended to read as follows:

Section 18-2, Permit, authority for commercial haulers; vehicles.

(a) It is unlawful for any person to engage in the commercial hauling of garbage, refuse and rubbish, to remove from any premises situated in the city, or to transport through the streets, alleys or public places of the city, any garbage, refuse, rubbish, offal, carcasses or dead animals or other offensive or unwholesome matter, unless authorized to do so by the city, and without first obtaining a permit as hereinafter provided.

(b) It is unlawful and an offense for any person to commercially collect, haul or transport any garbage or refuse along, over or upon any of the streets, alleys or public places in the city without prior approval from the utilities superintendent. All such vehicles shall at all times, except when loading or unloading, be kept completely and securely covered so that no part of the contents of the vehicles shall at any time be exposed to view; and such vehicles shall not be loaded above a point that will not permit their being driven over any of the streets, alleys or public places in the city without any portion of the contents being spilled or falling from them. All such vehicles and receptacles used shall be kept in a clean and sanitary condition, and shall have upon them, and each of them, the name of the person, company or corporation owning or operating them. A number by which to identify each vehicle and receptacle shall be painted on both sides of the vehicles and receptacles in letters and figures at least three (3) inches in height and of proportionate width. All such vehicles and receptacles shall at all times be subject to inspection by ~~the city county health department and the city's utilities superintendent~~ designees for the Oklahoma State Department of Health and/or the Public Works Director for the City of Midwest City. If, in either of their judgment, at any time any such vehicles or receptacles are defective or unfit for use, ~~the city county health department and/or the utilities superintendent~~ the designee for either the Oklahoma Department of Environmental Quality or the Public Works Director for the City of Midwest City are hereby authorized to prevent their use until put in proper condition to comply with the terms of this section.

1
2 (c) It shall be unlawful and an offense for any private contractor to furnish trash and refuse
3 service to any person within the city whose premises are connected to the water or sewer system
4 of the city except for areas when in the determination of the city it would be more feasible and
5 advantageous to contract for service with a private collector.
6

7 **Section 2.** That the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article I, In
8 General, Section 18-3, Compliance with landfill regulations; creating hazards; is hereby amended
9 to read as follows:

10
11 **Section 18-3, Compliance with landfill regulations; creating hazards.**
12

13 (a) Any person disposing of any refuse, garbage, rubbish or other matter shall comply with all
14 state laws and ~~city-county health~~ state regulations pertaining to sanitary landfills, and shall not
15 in any manner dispose of such matter or other products referred to herein so as to create a health
16 hazard or public nuisance.
17

18 (b) It shall be unlawful and an offense for any person to place into a cart emptied by city
19 personnel household hazardous waste such as pesticides, herbicides, flammable substances,
20 explosive substances and strong oxidants (such as swimming pool chemicals) that can react with
21 other compounds in a collection vehicle. The maximum fine upon conviction for a violation of
22 this section shall be a fine of two hundred fifty dollars (\$250.00).
23

24 **Section 3.** That the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II,
25 Municipal Collection and Disposal Service, Section 18-26, Sanitation containers at commercial
26 establishments; is hereby amended to read as follows:
27

28 **Section 18-26, Sanitation containers at commercial establishments.**
29

30 (a) The owner or operator of each commercial establishment in the city shall have an approved
31 sanitation container furnished by the city. Such sanitation containers shall be located and
32 maintained by the commercial establishment's owner or operator so as not to create a fire
33 hazard or provide harborage for rodents or the breeding of insects. The fire chief of the city
34 shall require the installation of fire-proof sanitation containers where the containers would
35 constitute a fire hazard to any property.
36

37 (b) The owner or operator of each commercial establishment shall have sanitation containers
38 for garbage, refuse and rubbish of adequate size and scheduled an adequate number of
39 collections to properly provide for the disposal of the accumulated garbage, refuse and rubbish.
40 ~~The city-county health department or the utilities superintendent of the city~~ A designee for the
41 Oklahoma Department of Environmental Quality or the Public Works Director or designee
42 shall prescribe the adequate size container and adequate number of scheduled collections in the
43 event the owner or operator of a commercial establishment fails to do so. The failure of the
44 owner or operator of a commercial establishment to have sanitation containers of adequate size
45 and an adequate number of scheduled collections shall constitute an offense.
46

1 (c) All containers at business establishments shall be placed in a location approved by the
2 environmental services director and easily accessible for collection under regulations issued by
3 the city. Should the collector be unable to empty a commercial container because it contains
4 inappropriate items or because access is blocked or prohibited, no unscheduled return trip will
5 be made unless the special pickup fee is paid by the owner, manager or agent of the
6 commercial business. Commercial account drivers are not allowed to exit the vehicle to open
7 enclosure gates. Gates must be opened by 5:00 a.m. on the day of collection. If the driver must
8 return to a business because a gate is not opened, the return trip fee of fifty dollars (\$50.00)
9 will be applied to the account.

10
11 (d) Each commercial establishment must have sanitation containers as required by this Code
12 except that office buildings are authorized to use and provide one (1) container for the entire
13 building.

14
15 **Section 4.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
16 repealed.

17
18 **Section 5.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
19 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
20 of the ordinance.

21
22 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
23 Oklahoma, this _____ day of _____, 2023.

24
25 **THE CITY OF MIDWEST CITY, OKLAHOMA**

26
27
28 _____
29 MATTHEW D. DUKES, II, Mayor

30
31 ATTEST:

32
33
34 _____
35 SARA HANCOCK, City Clerk

36
37
38 Approved as to form and legality this _____ day of _____, 2023.

39
40
41 _____
42 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 19, Health and Sanitation; repealing and placing into reserve Section 19-1 Health Department; amending 19-3, Condemnation of insanitary property; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed revocation and reservation of Section 19-1 removes the health department's official responsibilities and designation from City Ordinances. This change is recommended by the Oklahoma City-County Health Department. The amendments to Section 19-3 change the specifications on which City Officers have the authority to deem a building unsafe and give the City Manager emergency powers if the issues are a threat to human health and/or safety. These changes also specify the procedures the City will follow when finding a building or buildings as unsafe.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 **ORDINANCE NO. _____**

2
3 AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 19
4 HEALTH AND SANITATION; REPEALING AND PLACING INTO RESERVE SECTION 19-
5 1, HEALTH DEPARTMENT; AMENDING 19-3, CONDEMNATION OF INSANITARY
6 PROPERTY; AND PROVIDING FOR REPEALER AND SEVERABILITY.

7
8 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

9
10 **ORDINANCE**

11
12 **Section 1.** That the Midwest City Municipal Code, Chapter 19, Health and Sanitation, Section 19-
13 1, Health Department; is hereby repealed and placed into reserve:

14 **Section 19-1, Health department. Reserved.**

15
16
17 ~~The city county health department and its director shall have the powers of a city health~~
18 ~~department and city health officer respectively for the city. References to health department and~~
19 ~~health officer or director of the health department in this Code and in other ordinances of the~~
20 ~~city shall be deemed to mean the city county health department and its director, unless the~~
21 ~~context clearly indicates another meaning. Reserved.~~

22
23 **Section 2.** That the Midwest City Municipal Code, Chapter 19, Health and Sanitation, Section 19-
24 3, Condemnation of insanitary property; is hereby amended to read as follows:

25 **Section 19-3, Condemnation Determination of defective, unsafe and/or insanitary**
26 **property.**

27
28
29 (a) When any building, dwelling or premises has been inspected by the ~~health officer or chief~~
30 ~~plumbing inspector~~ City Fire Marshall and the City's Chief Building Official and the building,
31 dwelling and/or premises is found to be defective, ~~or unsafe and/or insanitary~~ to such an extent
32 that it constitutes a menace to public health and/or public safety, notice to that effect shall be
33 served upon the owner or ~~his~~ the owner's agent specifying the issues causing the building,
34 dwelling or premises to be deemed defective, unsafe and/or insanitary and specifying the areas
35 of the building, dwelling and/or premises that require repairs, required alterations or
36 improvements to be made. If such repairs, alterations or improvements as specified in the notice
37 are not commenced in good faith within ~~five (5)~~ fifteen (15) days from the date of the service of
38 such notice, and completed within a reasonable time, or the City has not received a response
39 from the owner or agent as to the repairs, alterations and/or improvements that are to be made,
40 with a timeline for completion of said repairs, alterations or improvements, the department of
41 health City may condemn the property as being insanitary and determine the building, dwelling
42 and/or premises are unfit for human habitation; and its occupancy thereafter is prohibited.

43
44 (b) Based on the findings and determination of the City Fire Marshall and the City's Chief
45 Official that the building, dwelling and/or premises are in such a condition that the defective,

1 unsafe and/or insanitary conditions constitute an imminent threat to the public health and/or
2 public safety, the City Manager, pursuant to the emergency authority established in Article III,
3 Section 3 of the City Charter may deem an emergency exists and the City Manager may make
4 all reasonable and necessary Orders to eliminate the emergency.

5
6 (c) If the City fails to receive a response or receives an inadequate response within the time
7 specified in this ordinance, the City may proceed under the dilapidated building process as
8 specified in City Ordinance for the removal of the building, dwelling or premises.

9
10 (d) When a building has been ~~condemned~~ as determined to be defective, unsafe and/or
11 insanitary, the occupants, if any, shall vacate immediately the building, dwelling or premises;
12 and the building, dwelling or premises shall remain vacant until such time as all repairs and
13 alterations specified in the notice above provided have been made. A warning sign shall be
14 placed upon the premises to read as follows:

15
16 "This building, dwelling and/or premises has been ~~condemned as being~~ determined to be
17 defective, unsafe or insanitary and unfit for human habitation, and it is unlawful for any person
18 to reside in or occupy the same.

19
20
21 _____
22 ~~Health Officer~~ ~~Inspector~~ City Fire Marshall

23 _____
24 Chief Building Official

25
26 **Section 3.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
27 repealed.

28
29 **Section 4.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
30 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
31 of the ordinance.

32
33 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
34 Oklahoma, this _____ day of _____, 2023.

35
36
37 **THE CITY OF MIDWEST CITY, OKLAHOMA**

38
39 _____
40 MATTHEW D. DUKES, II, Mayor

41 ATTEST:

42
43 _____
44 SARA HANCOCK, City Clerk

1 Approved as to form and legality this _____ day of _____, 2023.

2

3

4 _____

5 DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers, Manufactured Home Parks, Etc., Article I, In General, Section 23-1, Definitions; Section 23-3, Notice of violations; Section 23-5, Reinspection of conditions; Section 23-6, Inspection of parks authorized; Section 23-9, Written order to be given after hearing; Section 23-11, Hearing authorized when permit denied, suspended, etc.; Section 23-12, Health or inspection officer may take immediate action when emergency exists; Article II, Licenses and Permits, Section 23-25, Application; Section 23-31, Renewal applications; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendments are to change the definition of Inspection Officer to:

1. Remove the health official from the ordinances; and
2. Designate the Inspection Officer as either:
 - a. City Building Official;
 - b. City Fire Marshall; or
 - c. City Code Enforcement Officer.

These amendments are recommended by the Oklahoma City-County Health Department.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1
2 *Independent travel trailer* shall mean a travel trailer which has a flush toilet and a bath
3 or shower.
4

5 *Inspection ~~officer~~ Officer* shall mean the building official of the city or his authorized
6 agent, the Fire Marshall for the City or authorized agent, a code enforcement officer for the City
7 and/or an inspector for the Public Works Department for the City.
8

9 *Licensee* shall mean any person licensed to operate and maintain a manufactured home
10 park under this provisions of this chapter.
11

12 *Manufactured home* shall mean a structure, transportable in one or more sections, which
13 is eight (8) body feet or more in width and thirty-two (32) body feet or more in length, but
14 contains no less than three hundred twenty (320) square feet, and which is built on a permanent
15 chassis, and designed to be used as a year-round residential dwelling with or without permanent
16 foundation, when connected to the required utilities, and includes the plumbing, heating, air
17 conditioning, and electrical systems contained therein.
18

19 *Manufactured home park* shall mean any plot of ground upon which two (2) or more
20 manufactured homes, occupied for dwelling or sleeping purposes, are located regardless of
21 whether or not a charge is made for such accommodations.
22

23 *Manufactured home space* shall mean a plot of ground within a manufactured home park
24 designed for the accommodation of one manufactured home and not located on a manufactured
25 home sales lot.
26

27 *Manufactured home subdivision* shall mean a subdivision designed and intended for
28 residential use where residence is in a manufactured home exclusively and manufactured home
29 lots are sold for occupancy.
30

31 *Nonresidential manufactured trailer* shall mean any vehicle having the basic
32 characteristics of either a manufactured home or travel trailer but which is used for purposes
33 other than residential and is not being offered for sale, as indicated by a clearly displayed "For
34 Sale" sign on or near the trailer.
35

36 *Park* shall mean a manufactured home or travel trailer park.
37

38 *Permittee* shall mean any person to whom a temporary permit is issued to maintain or
39 operate a manufactured home park under the provisions of this chapter.
40

41 *Public water system or public sewer system* shall mean any such system built and owned
42 by, or dedicated to and accepted by, the city. All other such systems are private.
43

44 *Rural* shall mean any area shown on the Midwest City Area General Plan for suburban
45 or rural development and which is zoned agriculturally.
46

1 *Service building* shall mean a building housing toilet and bathing facilities for men or
2 women, and may also include buildings containing laundry facilities and other facilities as
3 required by this chapter or desired by the park operator.
4

5 *Subdivision* shall mean a manufactured home subdivision unless otherwise indicated.
6

7 *Travel trailer park* shall mean any plot of ground upon which two (2) or more dependent
8 travel trailers or independent travel trailers, occupied for dwelling or sleeping purposes, are
9 located regardless of whether or not a charge is made for such accommodations.
10

11 *Travel trailer space* shall mean a plot of ground within a park designed for
12 accommodation of one travel trailer.
13

14 *Urban* shall mean any area shown on the Midwest City Area General Plan for urban
15 intensity development.
16

17 **Section 2.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
18 Manufactured Home Parks, Etc., Article I, In General, Section 23-3, Notice of violations; contents;
19 is hereby amended to read as follows:
20

21 **Section 23-3, Notice of violation; contents.**
22

23 Whenever the ~~health or inspection officer~~ Inspection Officer determines violations of public
24 health, welfare or safety regulations exist, he shall notify the licensee or permittee of such alleged
25 violation. Such notice shall:
26

- 27 (a) Be in writing;
- 28 (b) Include a statement of the reasons for its issuance;
- 29 (c) Contain an outline of remedial action which, if taken, will effect compliance with
30 provisions of this chapter and other pertinent regulations;
- 31 (d) Allow a reasonable time not to exceed ninety (90) days for the performance of
32 any act it requires; and
- 33 (e) Be served upon the owner or his agent as the case may require, provided, that
34 such notice or order shall be deemed as properly served upon the owner or agent when a copy
35 thereof has been sent by certified mail to his last known address.
36

37 **Section 3.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
38 Manufactured Home Parks, Etc., Article I, In General, Section 23-5, Reinspection of conditions;
39 is hereby amended to read as follows:
40

41 **Section 23-5, Reinspection of conditions.**
42

43 At the end of ninety (90) days, the ~~health or inspection officer~~ Inspection Officer shall reinspect
44 the park and if the conditions or practices noted in the written notice have not been corrected, he
45 shall suspend the license and give notice in writing of such suspension to the person to whom

1 the license was issued. Upon receipt of notice of suspension the person shall cease operation of
2 such park, except as provided in section 23-8.

3
4 **Section 4.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
5 Manufactured Home Parks, Etc., Article I, In General, Section 23-6, Inspection of parks
6 authorized; is hereby amended to read as follows:

7
8 **Section 23-6, Inspection of parks authorized.**

9
10 The ~~health or inspection officer are~~ Inspection Officer is hereby authorized and directed to make
11 inspections to determine the condition of parks located within the city in order to perform their
12 duty of safeguarding the health and safety of occupants of the parks and of the general public.

13
14 **Section 5.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
15 Manufactured Home Parks, Etc., Article I, In General, Section 23-9, Written order to be given
16 after hearing; is hereby amended to read as follows:

17
18 **Section 23-9, Written order to be given after hearing.**

19
20 After the hearing provided for by this article, the ~~health or inspection officer~~ Inspection Officer
21 shall compile the findings of the city council as to compliance with this chapter and pursuant
22 regulations and shall issue an order in writing sustaining, modifying or withdrawing the prior
23 notice which shall be served as provided in section 23-3, provided, what happens then shall allow
24 the permittee to file an appeal to the district court.

25
26 **Section 6.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
27 Manufactured Home Parks, Etc., Article I, In General, Section 23-11, Hearing authorized when
28 permit denied, suspended, etc.; is hereby amended to read as follows:

29
30 **Section 23-11, Hearing authorized when permit denied, suspended, etc.**

31
32 Any person whose permit has been denied or suspended or who has received notice from the
33 ~~health or inspection officer~~ Inspection Officer that his permit will be suspended unless certain
34 conditions or practices at the park are corrected, may request and shall be granted a hearing on
35 the matter before the city council; provided, that when no petition for such hearing shall have
36 been filed within ten (10) days following the day on which notice of suspension was served, such
37 license shall be deemed to have been automatically revoked at the expiration of such ten-day
38 period.

39
40 **Section 7.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
41 Manufactured Home Parks, Etc., Article I, In General, Section 23-12, Health or inspection officer
42 may take immediate action when emergency exists; is hereby amended to read as follows:

43
44 **Section 23-12, Health or inspection officer may take immediate action when**
45 **emergency exists.**

1 Whenever ~~the health or inspection officer finds that~~ an emergency exists, which requires
2 immediate action to protect the public health, ~~he~~ based on an inspection and report from the
3 Inspection Officer, said Officer shall report said findings to the City Manager, or designee. The
4 City Manager, pursuant to the authority contained in Article III, Section 3 of the City Charter
5 for the City of Midwest City, may without notice or hearing issue an order reciting the existence
6 of such an emergency and requiring that such action be taken as he may deem necessary to meet
7 the emergency, including the suspension of the permit. Notwithstanding any other provisions of
8 this article, such order shall be effective immediately. Any person to whom such an order is
9 directed shall comply therewith immediately, but upon petition to the city council, shall be
10 afforded a hearing at the next regular meeting even if the agenda has been completed.

11
12 **Section 8.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
13 Manufactured Home Parks, Etc., Article II, Licenses and Permits, Section 23-25, Application;
14 contents; is hereby amended to read as follows:

15
16 **Section 23-25, Application; contents.**

17
18 Applications for an original license shall be made to the ~~inspection officer~~ Community
19 Development Department of the city and shall be in writing, signed by the applicant,
20 accompanied by an affidavit of the applicant as to the truth of the application and shall contain
21 the following:

- 22
23 (a) Name and address of the applicant;
24 (b) The interest of the applicant in, and the legal description of the park;
25 (c) A complete plan of the park showing compliance with all applicable provisions of
26 this chapter and regulations promulgated thereunder; and
27 (d) Such further information as may be requested by the ~~health and inspection officers~~
28 Inspection Officer.

29
30 **Section 9.** That the Midwest City Municipal Code, Chapter 23, Manufactured Homes, Trailers,
31 Manufactured Home Parks, Etc., Article II, Licenses and Permits, Section 23-31, Renewal
32 applications; contents; is hereby amended to read as follows:

33
34 **Section 23-31, Renewal Applications; contents.**

35
36 Application for renewal of a license shall be made in writing by the holder of the license and
37 shall contain the following:

- 38
39 (a) Any change in the information submitted since the time the original license was
40 issued or the latest renewal granted; and
41
42 (b) Other information requested by the ~~health or inspection officer~~ Inspection Officer.

43
44
45 **Section 10. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby
46 repealed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Section 11. SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of the ordinance.

PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City, Oklahoma, this _____ day of _____, 2023.

THE CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

Approved as to form and legality this _____ day of _____, 2023.

DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III, Massage, Division 1, In General, Section 31-105, Approval or denial; Division 2, Massage Establishment License, Section 31-113, Facilities and equipment; Division 3, Massage Therapist License, Section 31-131, Application; Division 4, Operating Requirements, Section 31-152, Requirements for cubicles, booth, etc.; and providing for repealer and severability. (D. Maisch – City Attorney).

The proposed amendments are to change who regulates the massage industry at the state level from the Oklahoma State Department of Health to the Oklahoma State Board of Cosmetology and Barbering.

These amendments are recommended by the Oklahoma City-County Health Department.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 31 HEALTH CARE FACILITIES; ARTICLE III, MASSAGE; DIVISION 1, IN GENERAL; SECTION 31-105, APPROVAL OR DENIAL DIVISION 2, MASSAGE LICENSE ESTABLISHMENT; SECTION 31-113, FACILITIES AND EQUIPMENT; DIVISION 3, MASSAGE THERAPIST LICENSE; SECTION 31-131, APPLICATION; DIVISION 4, SECTION 31-152, REQUIREMENTS FOR CUBICLES, BOOTH, ETC.; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

ORDINANCE

Section 1. That the Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III, Massage, Division 1, In General, Section 31-105, Approval or denial; is hereby amended to read as follows:

Section 31-105, Approval or denial.

The city shall approve or deny an application for a license under this article within a reasonable period of time and in no event shall the city approve or deny the application for a license later than ninety (90) days from the date that the application was accepted and approved by the ~~health department~~ Oklahoma State Board of Cosmetology and Barbering.

Section 2. That the Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III, Massage, Division 2, Massage Establishment License, Section 31-113, Facilities and equipment; is hereby amended to read as follows:

Section 31-113, Facilities and equipment.

(a) No license to conduct a massage establishment shall be issued if an inspection by the city reveals that the facilities do not comply with each of the following requirements:

- (1) If the establishment provides tubs, steam baths and showers, said facilities shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the building and plumbing codes of the city.
- (2) If the establishment provides steam rooms and shower compartments, said facilities shall have waterproof floors, walls and ceilings approved by the city or its designee.
- (3) If the establishment provides wet and dry heat rooms, the floors shall be adequately pitched to one (1) or more floor drains properly connected to the sewer; provided, that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

1 (4) A source of hot water must be available within the immediate vicinity of dry and wet
2 heat rooms to facilitate cleaning.

3
4 (5) The premises shall have adequate equipment for disinfecting and sterilizing
5 nondisposable instruments and materials used in administering massages. Such nondisposable
6 instruments and materials shall be disinfected after use on each patron.

7
8 (6) Protected cabinets shall be provided and used for the storage of clean linen, towels and
9 other materials used in connection with administering massages. All soiled linens, towels and
10 other materials shall be kept in properly covered containers or cabinets, which containers or
11 cabinets shall be kept separate from the clean storage areas.

12
13 (7) Toilet facilities shall be provided in convenient locations, and shall comply with all
14 building and plumbing codes of the city.

15
16 (8) Lavatories or washbasins provided with both hot and cold running water shall be installed
17 in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and
18 a dispenser and with sanitary towels.

19
20 (9) All electrical equipment shall be installed in accordance with the requirements of the
21 city's electrical ordinances.

22
23 (10) The establishment shall have adequate equipment such as massage tables and/or chairs
24 for administering massage. Said equipment shall be of a washable material and kept clean and
25 in good repair.

26
27 (b) Nothing contained herein shall be construed to eliminate other requirements of statutes or
28 ordinances concerning the maintenance of premises, nor to preclude authorized inspection
29 thereof, whenever such inspection is deemed necessary by the police or ~~health department~~
30 Oklahoma State Board of Cosmetology and Barbering.

31
32 **Section 3.** That the Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III,
33 Massage, Division 3, Massage Therapist License, Section 31-131, Application; is hereby amended
34 to read as follows:

35
36 **Section 31-131, Application.**

37
38 (a) Any person desiring the license required by the provisions of this division shall file a written
39 application with the ~~Oklahoma City County Health Department~~ Oklahoma State Board of
40 Cosmetology and Barbering. The applicant shall furnish the following information:

41
42 (1) The business address and all telephone numbers where the massage is to be practiced.

43
44 (2) The following personal information concerning the applicant:

45
46 a. Name, complete residence address and residence telephone numbers.

1 b. The two (2) previous addresses immediately prior to the present address of the
2 applicant, if less than two (2) years at the current address.

3 c. Written proof that the applicant is at least eighteen (18) years of age.

4 d. Height, weight, color of hair and eyes and sex.

5 e. Two (2) front-face portrait photographs taken within thirty (30) days of the date of the
6 application and at least two (2) inches by two (2) inches in size.

7 f. The massage or similar business history and experience five (5) years prior to the date
8 of application, including but not limited to whether or not such person has been operating in this
9 or another city or state under a license or permit, and whether such license or permit has been
10 denied, revoked or suspended and the reason therefor, and the business activities or occupations
11 subsequent to such action of denial, suspension or revocation.

12 g. All criminal convictions except misdemeanor traffic violations.

13 h. Proof of educational requirements as follows:

14
15 1. Successful completion of not less than five hundred (500) hours of massage studies
16 from a state-licensed or accredited massage school; or

17 2. Certification by the National Certification Board for Therapeutic Massage and
18 Bodywork.

19 The above educational requirements shall not apply to those individuals who
20 currently hold a valid license issued by the city to engage in the practice of massage upon the
21 passage of the ordinance codified in this article, so long as said license is renewed within thirty
22 (30) days of expiration.

23
24 (3) Such other information and identification of the person deemed necessary to discover
25 the truth of the matters required above.

26
27 (4) Authorization for the city to seek information and conduct an investigation into the truth
28 of the statements set forth in the application and the qualifications of the applicant for the license.

29 (5) A written declaration by the applicant, under penalty of perjury, that the information
30 contained in the application is true and correct, said declaration being duly dated and signed in
31 the city.

32 (6) A statement showing the name and address of the person by whom the massage therapist
33 is employed, if applicable, and such massage therapist shall file successive statements if a change
34 or changes are made in the employment of the massage therapist during the existence of the
35 license.

36
37 (b) Along with the written application, the applicant shall obtain from the Oklahoma State
38 Bureau of Investigation and provide to the city a current Oklahoma Criminal History Information
39 Report. The criminal record is considered current if it is dated no more than thirty (30) days prior
40 to the date on which the applicant submits a completed application to the city.

41
42 **Section 4.** That the Midwest City Municipal Code, Chapter 31 Health Care Facilities, Article III,
43 Massage, Division 4, Operating Requirements, Section 31-152, Requirements for cubicles, booth,
44 etc. is amended to read as follows:

45
46 **Section 31-152, Requirements for cubicles, booth, etc..**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

It shall be unlawful for any massage to be carried on within any cubicle, room, booth, or any area which is fitted with a door capable of being locked. Nothing contained herein shall be construed to eliminate other requirements of statutes or ordinances concerning the maintenance of premises, not to preclude authorized inspection thereof, whenever inspection is deemed necessary by the city or ~~Oklahoma City County Health Department~~ Oklahoma State Board of Cosmetology and Barbering.

Section 5. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of the ordinance.

PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City, Oklahoma, this _____ day of _____, 2023.

THE CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

Approved as to form and legality this _____ day of _____, 2023.

DONALD D. MAISCH, City Attorney



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Members of the Ordinance Review Committee

From: Donald D. Maisch, City Attorney

Date: July 6, 2023

RE: Discussion, consideration, and possible action of approving an ordinance amending Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article I, In General, Section 32-3, Exceptions for veterans and nonprofit organizations; Section 32-4, Duty of police to enforce; Section 32-5, Loud noises and speaking devices; Article II, Permit, Section 32-25, Fees; health certificates; Article III, Foodstuffs, Section 32-51, Inspections by health department; Section 32-52, Condemning unwholesome food; Article V, Special Events, Section 32-83, Special events defined; Section 32-88, Exemptions; Section 32-95, Health regulations; and providing for repealer or severability. (D. Maisch – City Attorney).

The proposed amendments are properly identify what the Oklahoma City-County Health Department has jurisdiction and properly identify what actions the City-County Health Department will take concerning Peddlers and Solicitors, including certain mobile food trucks. Further the changes better define special events and better define a charitable organization to receive waiver of requirements.

These amendments are recommended by the Oklahoma City-County Health Department.

Recommendation is at the discretion of the Ordinance Review Committee.

Respectfully submitted,

Donald D. Maisch
City Attorney

1 **ORDINANCE NO. _____**

2

3 AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 32

4 PEDDLERS AND SOLICITORS: ARTICLE I, IN GENERAL, SECTIONS 32-3, EXCEPTIONS

5 FOR VETERANS AND NONPROFIT ORGANIZATIONS, 32-4, DUTY OF POLICE TO

6 ENFORCE, 32-5 LOUD NOISES AND SPEAKING DEVICES; ARTICLE II, PERMIT,

7 SECTION 32-25 FEES; HEALTH CERTIFICATES; ARTICLE III, FOODSTUFFS, SECTIONS

8 32-51 INSPECTIONS BY HEALTH DEPARTMENT, 32-52, CONDEMNING

9 UNWHOLESOME FOOD, SECTION 32-54, PHYSICAL EXAMINATIONS, HEALTH

10 CERTIFICATES, 32-55 SANITATION REQUIREMENTS FOR VEHICLES, 32-58, HEALTH

11 CERTIFICATE FOR FRESH GARDEN PRODUCTS; ARTICLE V, SPECIAL EVENTS,

12 SECTION 32-83, SPECIAL EVENTS DEFINED, SECTION 32-88, EXEMPTIONS, SECTION

13 32-95, HEALTH REGULATIONS; AND PROVIDING FOR REPEALER AND

14 SEVERABILITY.

15

16 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

17

18 **ORDINANCE**

19

20 **Section 1.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article I,

21 In General, Section 32-3, Exceptions for veterans and nonprofit organizations; is hereby amended

22 to read as follows:

23

24 **Section 32-3, Exceptions for veterans and nonprofit organizations.**

25

26 (a) The provisions of this chapter shall not be held to include, and shall not apply to any ex-

27 service person as provided in 72 O.S. §§ 1—6, inclusive. However, each person who engages in

28 the handling and selling of any product which is intended for human consumption and is not

29 covered under the Homemade Food Freedom Act at Title 2 of the Oklahoma Statutes, Section

30 5-4.1 et seq., and claims exemption under ~~the aforementioned law~~ this City Ordinance, shall be

31 required to present ~~a health certificate~~ all necessary and proper permits or licenses from the

32 Oklahoma City-County Health Department and documentary proof of past government service

33 to the city clerk. Thereupon, the city clerk shall issue a license to such person. Such ex-

34 service permit shall be issued only for a period of time as allowed in sections 32-25 and 32-28 for such

35 business.

36

37 (b) Nonprofit organizations which have been incorporated for one (1) year will be permitted to

38 locate within any zoning district for special sales or activities for a period not to exceed fifteen

39 (15) days out of the calendar year, and nonprofit organizations will be permitted to locate within

40 any zoning district for the sale of Christmas trees, for a period not to exceed sixty (60) days out

41 of the calendar year. However, said nonprofit organizations shall be required to obtain property

42 owners written permission if on lands other than owned by the nonprofit organizations, obtain

43 all permits and meet all safety code inspections, under applicable local and state laws.

1 (c) Organization or vendors participating in a city-sponsored special event will be exempt from
2 the permit or license fee required for the event; provided that the organization or vendor obtains
3 all permits and meets any applicable local, state or federal laws.
4

5 **Section 2.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article I,
6 In General, Section 32-4, Duty of police to enforce; is hereby amended to read as follows:
7

8 **Section 32-4, Duty of police to enforce.**
9

10 It is the duty of any police officer of the city to require any person seen peddling, soliciting or
11 canvassing and who is not known by such officer to be duly licensed, to produce his peddler's
12 permit or license and to enforce the provisions of this chapter against any person found to be
13 violating the same.
14

15 **Section 3.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article I,
16 In General, Section 32-5, Loud noises and speaking devices; is hereby amended to read as follows:
17

18 **Section 32-5, Loud noises and speaking devices.**
19

20 No peddler, solicitor or canvasser, or any person in his behalf, shall shout, cry out, blow a horn,
21 ring a bell or use any sound device, including any loud-speaking, radio or sound-amplifying
22 system, upon any of the streets, alleys, parks or other public places of the city, or upon any
23 private premises in the city where sound of sufficient volume emitted or produced can be heard
24 from a distance of fifty (50) feet or more inside a building with all of its doors and windows
25 closed or a motor vehicle with all of its doors and windows closed if the source of such sound is
26 located upon any public right-of-way, for the purpose of attracting attention to any goods, wares
27 or merchandise which the peddler proposes to sell, or solicitor or canvasser intends to promote.
28

29 **Section 4.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article II,
30 Permit, Section 32-25, Fees; health certificates; is hereby amended to read as follows:
31

32 **Section 32-25, Fees; health certificates.**
33

34 (a) For the purposes of conducting the investigations, making the inspections, performing the
35 services and enforcing the regulations herein commanded, there is hereby levied a schedule of
36 fees and charges for the permits herein required for peddlers, hucksters, hawkers, solicitors,
37 canvassers and nonprofit organizations. The fees shall be as follows:
38

- 39 (1) *Hucksters, hawkers and peddlers generally:* There is hereby levied upon all
40 hucksters, hawkers and peddlers, and all persons engaged in buying and selling as
41 herein defined, except for hand pushcarts, ice cream wagons and solicitors, and
42 canvassers, a fee of two hundred fifty dollars (\$250.00) for ninety (90) days, or one
43 hundred twenty-five dollars (\$125.00) for forty-five (45) days or less period of time,
44 for each vehicle, trailer, building or other devices used by such person in such

1 business; provided that each permittee shall be entitled to two (2) helpers, but that
2 each additional helper other than the two (2) allowed shall pay a fee of fifty dollars
3 (\$50.00) for ninety (90) days, or twenty-five dollars (\$25.00) for forty-five (45) days
4 or less period of time. There is hereby levied upon all hucksters, hawkers and peddlers
5 buying and selling as herein defined from pushcarts propelled by human power, a fee
6 of one hundred dollars (\$100.00) for ninety (90) days, or fifty dollars (\$50.00) for
7 forty-five (45) days or less period of time; provided that each such huckster, hawker
8 or peddler shall be entitled to one (1) helper, but each additional helper other than the
9 one (1) allowed shall pay a fee of fifty dollars (\$50.00) for ninety (90) days, or twenty-
10 five dollars (\$25.00) for forty-five (45) days or less period of time. No permit shall
11 be issued hereunder until the applicant has paid the required fees as specified. All
12 hucksters, hawkers, peddlers and helpers are hereby likewise required to procure a
13 health certificate obtain all necessary permits or licenses from the Oklahoma City-
14 County Health Department as required by either state law or state regulation and
15 present to the City Clerk said permit or license from the Oklahoma City-County
16 Health Department at the time of application.
17

18 (2) *Ice cream wagons:* Ice cream wagons selling ices or other ice cream products from
19 vehicles other than pushcarts shall pay a fee of one hundred dollars (\$100.00) per
20 year, payable semiannually. Pushcarts selling ices or other ice cream products shall
21 pay a fee of ten dollars (\$10.00) per year, payable semiannually. All persons
22 operating ice cream wagons shall obtain all necessary permits or licenses from the
23 Oklahoma City-County Health Department as required by either state law or state
24 regulation and present to the City Clerk said permit or license from the Oklahoma
25 City-County Health Department at the time of application.
26

27 (3) *Solicitors and canvassers:* All persons who go from house to house or place to place
28 in the city and solicit or canvass for orders for goods, wares, merchandise or
29 subscriptions for publications to be delivered in the future shall pay a fee of five
30 dollars (\$5.00) per week, fifteen dollars (\$15.00) per month or fifty dollars (\$50.00)
31 per year. All solicitors and canvassers shall obtain all necessary permits or licenses
32 from the Oklahoma City-County Health Department as required by either state law
33 or state regulation and present to the City Clerk said permit or license from the
34 Oklahoma City-County Health Department at the time of application.
35

36 (4) *Nonprofit organizations:* No permit fee shall be charged. All nonprofit organizations
37 shall obtain all necessary permits or licenses from the Oklahoma City-County Health
38 Department as required by either state law or state regulation and present to the City
39 Clerk said permit or license from the Oklahoma City-County Health Department at
40 the time of application.
41

42 (b) No free permits shall be granted, nor rebates allowed for any cause, nor any sum accepted
43 less than the amount herein specified, except as prescribed in section 32-3, for a shorter period
44 than therein required.
45

1 (c) No permit shall be issued until the amount prescribed therefore, shall have been paid to the
2 city clerk.

3
4 **Section 5.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article III,
5 Foodstuffs, Section 32-51, Inspections by health department; is hereby amended to read as follows:
6

7 **Section 32-51, Inspections by health department Health Department licenses.**

8
9 ~~The director of the city county health department shall inspect and examine the foodstuffs being~~
10 ~~sold or offered for sale by Any hucksters, hawkers, solicitors, canvassers and or peddlers; and~~
11 ~~the wagons, carts or other receptacles so used for the transportation of such foodstuffs, and the~~
12 ~~screens and curtains protecting the same not less than once each month. He shall inspect the~~
13 ~~same more often when such inspection is deemed necessary shall obtain all necessary and~~
14 ~~required permits or licenses from the Oklahoma City-County Health Department before selling~~
15 ~~or offering to sell foodstuffs and prior to obtaining a permit or license from the City of Midwest~~
16 ~~City.~~

17
18 **Section 6.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article III,
19 Foodstuffs, Section 32-52, Condemning unwholesome food; is hereby amended to read as follows:
20

21 **Section 32-52, Condemning unwholesome food.**

22
23 ~~The director of the city county health department~~ Oklahoma City-County Health Department
24 shall have the right to condemn any such foodstuffs which are unwholesome, injurious to health
25 or unfit for human consumption.

26
27 **Section 7.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article V,
28 Special Events, Section 32-83, Special events defined; is hereby amended to read as follows:
29

30 **Section 32-83, Special events defined.**

31
32 ~~Special events are a temporary assembly of individuals, that activities that are short term in nature,~~
33 ~~are open to the public, are being held outdoors, are operating with property owner permissions on~~
34 ~~either public or private property, reasonably likely to attract three hundred (300) or more people at~~
35 ~~any one time during the event, and include activities such as, special sales conducted by a~~
36 ~~recognized vendor, sporting events, and related accessory uses thereto, i.e., parking facilities. Flea~~
37 ~~markets, events held in sport stadiums, and activities that are required to obtain a permit under a~~
38 ~~different chapter of these City Ordinances are not considered special events.~~

39
40 **Section 8.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article V,
41 Special Events, Section 32-88, Exemptions; is hereby amended to read as follows:
42

43 **Section 32-88, Exemptions.**

1 The provisions of this article shall not apply to ~~a person, firm or an~~ organization ~~when the net~~
2 ~~proceeds from the special event are used directly for charitable purposes~~ that has received
3 designation as a charitable organization pursuant to Section 501(c)(3) of the United States
4 Internal Revenue Services regulations and are also co-sponsored by the City of Midwest City.

5
6 **Section 9.** That the Midwest City Municipal Code, Chapter 32 Peddlers and Solicitors, Article V,
7 Special Events, Section 32-95, Health regulations; is hereby amended to read as follows:
8

9 **Section 32-95, Health regulations.**

10
11 When applicable, all special events shall comply with all city-county health regulations and other
12 recognized health practices. Mobile food trucks shall be licensed by the Oklahoma City-County
13 Health Department and the City of Midwest City before commencing any hook ups or operations
14 at a special event. Food handlers shall have a health card showing them to be free from
15 communicable diseases, which card shall not be more than six (6) months old, issued by a
16 recognized official of the city, state or county agency. The city reserves the right to revoke the
17 City permit for noncompliance with such health regulations immediately and without notice.
18

19 **Section 10.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
20 repealed.
21

22 **Section 11.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
23 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
24 of the ordinance.
25

26 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
27 Oklahoma, this _____ day of _____, 2023.
28

29 **THE CITY OF MIDWEST CITY, OKLAHOMA**

30
31
32 _____
33 MATTHEW D. DUKES, II, Mayor
34

35 ATTEST:

36
37
38 _____
39 SARA HANCOCK, City Clerk
40

41
42 Approved as to form and legality this _____ day of _____, 2023.
43
44

1 _____
2 DONALD D. MAISCH, City Attorney