SPECIAL CITY OF MIDWEST

ORDINANCE OVERSIGHT COUNCIL COMMITTEE AGENDA

City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

May 28, 2020 – 6:00 PM

A. CALL TO ORDER.

B. DISCUSSION ITEMS.

1. Discussion and consideration of approving the minutes of the special January 6, 2020 meeting.

2. Discussion and consideration of an ordinance amending Appendix A, Zoning Regulations, of the Midwest City Code; by amending Section 4.5.2, Light Industrial: Restricted; Section 4.9.2, Use Chart and providing for repealer and severability and setting an effective date. (Community Development - B. Harless)

3. Discussion and consideration of an Ordinance amending the Midwest City Municipal Code, chapter 26, Noise, Adding Section 4.1 Hours of Operation. (City Attorney – H. Poole)

4. Discussion and consideration of an ordinance amending the Midwest City Municipal Code, Chapter 28, Article II, Offenses against morals, by amending Section 20; Disorderly House, establishing an effective date; and providing for repealer and severability. (City Attorney - H. Poole)

5. Discussion and consideration of an ordinance amending the Midwest City Municipal Code, Chapter 1, General Provisions, 1-15 Specific Penalty for Violations of Code; establishing and effective date; and providing for repealer and severability. (City Attorney - H. Poole)

6. Discussion of research related to amending Midwest City Ordinance 28-54 Trespass. (City Attorney – H. Poole)

C. ADJOURNMENT.
MINUTES OF THE
SPECIAL ORDINANCE OVERSIGHT COUNCIL COMMITTEE MEETING

January 6, 2020 – 6:30 PM

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 6:30 PM with Councilmember *Susan Eads and **Mayor Matt Dukes, and along with City Manager Tim Lyon, Assistant City Manager Vaughn Sullivan, Acting City Attorney Vicki Floyd, City Clerk Sara Hancock, Community Development Director Billy Harless, Fire Chief Bert Norton, City Planning Manager Kellie Gilles, and Public Works Director Paul Streets. Absent: None.

Discussion Items.

1. Discussion and consideration of approving the minutes of the special October 24, 2019 meeting. Dukes made a motion to approve the minutes, as submitted, seconded by Byrne. Voting aye: Byrne and Dukes. Absent: Eads. Nay: none. Motion carried.

   * Susan Eads arrived at 6:49 PM.

2. Discussion and consideration of reviewing proposed Midwest City Code of Ordinances changes and possibly making suggestions for the full Council to evaluate.

   a. After P. Streets, staff and Council discussion, Dukes made a motion to proceed as discussed and submit the changes to Chapter 43 Section 188-195 to the full City Council, seconded by Byrne. Voting aye: Eads, Byrne and Dukes. Absent: none. Nay: none. Motion carried.

   b. After Fire Chief, staff and Council discussion, Dukes made a motion to proceed as discussed and submit the changes to Chapter 15 Section 100-113 to the full City Council, seconded by Byrne. Voting aye: Eads, Byrne and Dukes. Absent: none. Nay: none. Motion carried.

   c. After Fire Chief, staff and Council discussion, Dukes made a motion to educate and continue working on Chapter 15 Section 56-59 and bring back by July 1, 2020 seconded by Eads. Voting aye: Eads, Byrne and Dukes. Absent: none. Nay: none. Motion carried

**Mayor Dukes left the meeting at 7:08 PM and returned at 7:13 PM


Adjournment. Chairman Byrne adjourned the meeting at 7:24 PM.

____________________________
PAT BYRNE, Chairman
To: Ordinance Review Committee

From: Billy Harless, Community Development Director

Date: May 28, 2020

Subject: Discussion and consideration of an ordinance amending Appendix A, Zoning Regulations, of the Midwest City Code; by amending Section 4.5.2, Light Industrial: Restricted; Section 4.9.2, Use Chart and providing for repealer and severability and setting an effective date.

This is a continuation of discussion from the October 24, 2019 Ordinance Review Committee meeting.

At that meeting, staff proposed amending the Zoning Ordinance to include the use of Medical Marijuana Processing in the Light Industrial: Restricted use unit classification and allowing this use by right in the C-3, Community Commercial District. Committee members requested that further research be done to see how other communities were addressing the various forms of processing within their zoning ordinances.

Staff attended the regular APTAC (Areawide Planning and Technical Advisory Committee) meeting at ACOG on November 14, 2019. During this meeting, staff from various central Oklahoma communities discussed questions and concerns regarding medical marijuana. Midwest City staff asked those in attendance how they were approaching the various forms of processing within their zoning ordinance. Staff from communities including Del City, Edmond and El Reno stated that they too have realized that different forms of processing may be appropriate uses in zoning districts other than just industrial. Midwest City staff brought up the idea of requiring a Special Use Permit for light processing to allow staff, the Planning Commission and City Council to review each application for a processing facility to see if the equipment to be used is lighter and less intensive than traditional industrial equipment.

John Sharp, Deputy Director, of ACOG acknowledge all of the concerns and offered to see if he could dedicate the regular January or February APTAC meeting to the topic of medical marijuana and have a representative from OMMA in attendance to answer questions about zoning, certificates of compliance, etc. A representative from OMMA did attend the March APTAC meeting and provided statistics regarding licenses for the County and each metro municipality but did not provide guidance regarding zoning for lighter processing facilities.
The ordinance prepared for this meeting adds light processing in the Light Industrial: Restricted use unit classification and requires a Special Use Permit for all Light Industrial: Restricted uses in the C-3, zoning district. Light Industrial: Restricted are allowed by right in the C-4, I-1, I-2 and I-3 zoning districts. Special Use Permit applications go before the Planning Commission for a recommendation and City Council for approval.

This process will allow staff to require that the applicant submit details of the processing equipment to be used. If the Special Use Permit is approved, the building and fire inspectors will make annual inspections of the facility as required by OMMA for the Certificate of Compliance. During these inspections, the building inspector and fire inspector will be able to view the equipment being used to ensure that it is consistent with the approved Special Use Permit.

Billy Harless, AICP
Community Development Director

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ORDINANCE NO. ____________

AN ORDINANCE AMENDING APPENDIX A, ZONING REGULATIONS, OF THE MIDWEST CITY CODE; BY AMENDING SECTION 4.5.2, LIGHT INDUSTRIAL: RESTRICTED; SECTION 4.9.2, USE CHART AND PROVIDING FOR REPEALER AND SEVERABILITY AND SETTING AN EFFECTIVE DATE.

SECTION 1. That Appendix A, Zoning Regulations, of the Midwest City Code, is hereby amended by amending Section 4.5.2, Light Industrial: Restricted, as follows:

Establishments engaged in the manufacture, assembly, research, or processing with all operations and processes entirely within an enclosed structure. There is no outdoor storage of raw materials and products.

Establishments have no outdoor industrial wastewater treatment system and produce no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Typical uses include, but are not limited to, bakery employing more than five (5) fulltime employees; book binder; cabinet chop; clothing manufacturing; electronic equipment assembly and manufacturing; furniture upholstering; ice plant; laundry and dry cleaning plant employing more than five (5) full time people; printing plant; engraving plant; instrument and meter manufacture; mattress renovation; optical goods manufacture; photographic equipment manufacture; collection and compression of aluminum cans and glass for recycling. Also to include any plant extraction or processing that is deemed less hazardous than stated or accounted for in the International Building and Fire Codes. Examples of which include but are not limited to cold water washing and heat press processing.

SECTION 2. That Appendix A, Zoning Regulations, of the Midwest City Code, is hereby amended by amending Section 4.9.2, Use Chart, as follows:

For line 4.5.2 a “S” will be shown for the following zoning district to indicate that a Special Use Permit is required: C-3

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY. If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in force and effect on and after the 35 _____ day of ____________, 2020.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, on the ____ day of ____________, 2020.

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 ____________, 2020.  

________________________________________
HEATHER POOLE, City Attorney
ORDINANCE NO. __________

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 26, NOISE, ADDING SECTION 26-4.1, HOURS OF BUSINESS FOR MEDICAL MARIJUANA DISPENSARIES, PENALTY; ESTABLISHING AN EFFECTIVE DATE; 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 26, Noise, is hereby amended by adding Section 26-4.1, Hours of Business for Medical Marijuana Dispensaries and Penalty to read as follows:

Section 26-4.1 – Hours of operation

That for the public peace, all Medical Marijuana Dispensaries shall be open and operate from the hours of 9:00 am through 9:00 pm.

(a) Any Medical Marijuana Dispensary that violates any provision of this chapter shall upon conviction thereof be guilty of an offense against the city.

(b) Enforcement shall be applied as set out in 26-9 of this section.

(c) Penalties shall be applied as set out in 26-10 of this section.

Section 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after _____________.

Section 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 __________, 2020.

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 __________, 2020.

________________________________________
HEATHER POOLE, City Attorney
Chapter 26 - NOISE

Footnotes:
--- (1) ---

Cross reference—Definitions and rules of construction generally, § 1-2; mufflers, § 24-219; nuisances generally, Ch. 27; noise from oil wells, § 29-15; loud noises by peddlers, § 32-5.

Sec. 26-1. - Findings of fact.

It is found and declared that:

(1) The making and creation of excessive, unnecessary noise within the city is a condition which has existed for some time and the extent and volume of such noise is increasing; and

(2) The making, creation or maintenance of such excessive unnecessary, unnatural or unusual noise, prolonged in time, place and use, affects and is a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city; and

(3) A substantial body of scientific and technological knowledge and expertise exists by which noise is recognized as sound which is excessive and thereby unwanted and rejectable, and may be substantially abated; and

(4) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy in pursuance of and for the purpose of securing and promoting the peace and quiet for the greater assurance of public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.

Sec. 26-2. - Definitions.

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

(1)
*Ambient sound pressure level* is the all-encompassing noise associated with a
given environment, being usually a composite of sounds from many sources,
ne and far, statistically equivalent to L90; the percentile noise level
exceeded ninety (90) percent of the time based on any measurement period
of not less than ten (10) minutes or more than thirty (30) minutes.

(2) *A-weighted sound level* means the sound pressure level in decibels as
measured on a sound level meter using the A-weighting network. The level so
read is designated as dBA.

(3) *Construction* means any site preparation, assembly, erection, substantial
repair, alteration, or similar action excluding demolition, for or of public or
private rights-of-way, structures, utilities or similar property.

(4) *Continuous sound* means any sound, essentially without interruption, which
exists for a period of six (6) minutes or more.

(5) *Decibel (dB)* means a unit for measuring the volume of a sound, equal to
twenty (20) times the logarithm to the base 10 of the ratio of the pressure of
the sound measured to the reference pressure, which is twenty (20)
micropascals (twenty (20) microns per square meter), designated as dBA.

(6) *Demolition* means any dismantling, intentional destruction or removal of
structures, utilities, public or private right-of-way surfaces, or similar
property.

(7) *Device* means any mechanical object or piece intended to produce, or which
produces the resultant effect objectively sought when operated or used.

(8) *Emergency* means any occurrence or set of circumstances involving actual or
imminent physical trauma or property damage which demands immediate
action.

(9) *Emergency vehicle* means vehicles of the fire, police and highway patrol
departments and legally authorized ambulances and emergency vehicles of
state departments or any political subdivisions thereof and vehicles of public
service corporations.

(10) *Emergency work* means any work performed for the purpose of preventing or
alleviating physical trauma or property damage threatened or caused by an
emergency.

(11)
Excessive sound means that sound level which elicits complaints usually independent of each other in the estimate of the sound's being acceptable or unacceptable.

(12) Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(13) Impulsive sound means sound pulses of short duration, usually less than one second, with an abrupt onset and rapid decay.

(14) $L_{90\text{ percentile level}}$ means the time-averaged sound pressure level, A-weighted, that is exceeded in any time measurement period ninety (90) percent of that time.

(15) $L_{10\text{ percentile level}}$ means the time-averaged sound pressure level, A-weighted, that is exceeded in any time measurement period ten (10) percent of that time.

(16) $L_{1\text{ percentile level}}$ means the time-averaged sound pressure level, A-weighted, that is exceeded in any time measurement period one percent of that time.

(17) Measurement period means that total amount of time used in the measurement of sound levels for a given incident not including time intervals, or their total time, between intervals of actual sound measurement time. Limits are as stated in (1), not less than ten (10) minutes and not more than thirty (30) minutes.

(18) Motor vehicle means every vehicle self-propelled on land and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails; provided, however, the definition of motor vehicle shall not include implements of husbandry.

(19) Muffler means a device for abating the sound of escaping gases of an internal combustion engine.

(20) Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
(21) *Noise disturbance* means any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

(22) *Powered model vehicle* means any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

(23) *RMS sound pressure* means the square root of the time average square of the sound pressure, denoted Prms.

(24) *Sound* means temporal and spatial oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes progressively alternate compression and rarefaction of that medium, and which propagates at finite speed to distant points and can evoke an auditory sensation.

(25) *Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

(26) *Sound pressure* means the instantaneous difference between the actual pressure and the average barometric pressure at a given point in space, as produced by sound energy.

(27) *Sound pressure level* means twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals (20×10⁻⁶ N/m²). The sound pressure level is denoted L_p, or SPL and is expressed in decibels (dB).

(b) All defined terminology used in this chapter which is not defined in subsection (a) or in Chapter 1 of this Code, shall be in conformance with applicable publications of the American National Standards Institute (ANSI), or its successor body.

Sec. 26-3. - Prohibited generally.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusual noise disturbance or any noise which either annoys, disturbs, injures or dangers the comfort, repose, health, peace or safety of others, within the limits of the city.

Sec. 26-4. - Specific prohibitions.
The following acts, among others and not to exclude other such acts, are declared to be excessive or unusual noises in violation of this chapter, except and unless in the urgent interest of public health, welfare, and safety, a permit has been issued by the city manager for continuance or performance over such time periods as may be so stated:

(1) Owning, maintaining, harboring, or maintaining for hire any animal or animals, bird or birds, which, by frequent or prolonged noisemaking, cause or tend to cause excessive sound levels, whether originating from public or private facilities, except publicly-owned and/or publicly operated zoos.

(2) Performance of construction, demolition, and/or repair work at or on any structural or roadway project or undertaking whether by manual or mechanical means, such as to produce noise beyond the sound pressure levels established as local limits within the zoning district classifications and times of day as set out by Table I, section 26-12.

(3) Discharge into the open air of the sound-laden exhaust from, or escape of excessive sound from working parts of the transmission or conveyance of fluids or solids through piping, conduit, or by way of other mechanical transport, stationary, portable or mobile engine or engines or motorized vehicle or vehicles, such as to exceed noise levels established as local limits according to Table I, section 26-12.

(4) Sounding of horns, whistles, sirens, firearms or other such alarm or announcement device, whether manual or power-operated, or the detonation of fireworks or explosives except as required as warning of fire, natural disaster or other impending or incidental danger, or which may be required as a part of law enforcement, by emergency, or as excepted by section 26-5.

(5) a. Playing or operating, or permitting the playing, use or operation, of any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound if such sound is for the purpose of entertainment or is used for that purpose and can be heard from the distance of fifty (50) feet or more if the source of such sound is located upon any public right-of-way, or

b. 
If said source is located upon any public right-of-way and can be heard inside a structure or in a motor vehicle other than the source of said noise, and if in the receiving motor vehicle all doors and windows are closed.

c. It shall be prima facie evidence of a violation of this subsection if the sound can be heard outside the limits described in section 26-4(5)(a) and (b).

(6) Shouting, carousing, singing or other prolonged noisemaking such as to cause or tend to cause excessive sound pressure levels.

(7) Operation of any motorized surface boat or underwater vehicle, whether on land, water impoundment, lake, stream, diversion channel, or astride a conveyance, such as to exceed sound pressure levels ashore established as local limits according to Table I, section 26-12.

(8) Operation of powered models or toys such as to exceed sound pressure levels established as local limits according to Table I, section 26-12.

(9) It shall be unlawful to run, test, or otherwise operate aircraft engines on the ground or operate an aircraft facility in such a manner as to cause or tend to cause noise disturbance. Nothing in this section shall be construed to prohibit, restrict, penalize, or enjoin or in any manner regulate the movement of aircraft which are, in all respects, conducted in accordance with, or pursuant to applicable federal laws or regulations, or air traffic control instructions.

(10) Operating, or permitting to be operated in any place of public entertainment during any hour of operation when patrons or customers may be expected, any loudspeaker or sound amplifier which produces, reproduces or amplifies sound, at a point normally to be occupied by a patron or customer, equal to or in excess of ninety (90) dBA as read on a sound level meter at slow response, unless a conspicuous, legible sign, readable by a person with 20/20 vision at a distance within ten (10) feet of it, is posted at or within five (5) feet of each public entrance and not more than five (5) feet above the level of the ground, floor, or other entrance threshold, which sign shall state:

"WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT"
This provision shall not be construed to allow the operation of such loudspeaker or sound amplifier in such manner as to violate paragraph (11) below or section 26-6.

(11) Creation of noise within five hundred (500) feet of any school, other such institution of learning, church, hospital, convalescent hospital or mass-care home, or court of law in excess of sound pressure levels as applied to residential districts from 10:00 p.m. to 7:00 a.m., according to Table I, section 26-12, provided conspicuous, legible signs are serviceably displayed at such distance from the aforementioned institutions, or any of them, that such potential violation may be avoided.

(12) No property owner, lessor or lessee shall knowingly allow any automobile, motorcycle, minibike or other vehicle which creates a noise disturbance or which creates noise that violates section 26-6 to be driven across his property. Nothing in this section shall be construed as to prohibit the arrest of the operators of said vehicles in accordance with section 26-9.

(Ord. No. 2458, § 1, 4-9-91)


Sec. 26-5. - Exemptions.

The following sources of potentially excessive sound shall be exempt from noise control regulation:

(1) Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.

(2) Noise created or to be created as the result of provisions of section 26-4 such that a permit shall be issued beforehand by the city manager, and such event shall be conducted in accord with provisions of such permit.

(3) Disaster or other emergency, or, as result of such disaster, demanding the immediate undertaking by operators and/or mechanical devices for relief of stress thus created.
(4) Organized sporting events.

(5) Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way.

(6) Interstate railway locomotives and trains en-route, and not engaged in switching operations within residential land use classifications between 10:00 p.m. and 7:00 a.m.

Sec. 26-6. - Community sound level standards.

(a) Land use zoning district classifications shall be as set out in the zoning ordinance distinguishable as Residential, Commercial/Office, and Agricultural/Industrial land use classifications, within which sound levels of Table I of section 26-12 shall be locally measurable. It shall be unlawful for any person to operate, or to permit to be operated, any stationary source of sound which, during any sound level measurement period time interval:

(1) Creates a unit percentile sound level (L 1) greater than 15 dBA as indicated within a given time division of land use calculations of section 26-12, Table I; or

(2) Creates a tenth percentile sound level (L 10) greater than 10 dBA as indicated within a given time division of land use calculations of section 26-12, Table I; or

(3) Creates a ninetieth percentile sound level (L 90), which exceeds limits as set out within a given time division of land use classification of section 26-12, Table I.

(b) Sound projected from one use district into another use district of lesser sound level limit shall not exceed such lesser sound level measured at the boundary of such lesser sound level use district. Sound projected from one property to another property of different ownership, within the same use district, shall be measured at the property line of the affected property. For any stationary source of sound which emits impulsive sound, the limits set forth in section 26-12, Table I, shall be reduced by 5 dBA; the provisions of subsection (a)(1) of this section shall apply to the lowered limit.

(c)
It shall be unlawful to operate a motor vehicle or combination of vehicles within the city in excess of sound pressure levels set forth in Table II of section 26-12. It shall be unlawful for recreational vehicles to produce noise which exceeds the sound pressure levels set forth in Table I or II. Noise emitted from said vehicles can be measured pursuant to Table I or Table II. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial motorcycles, go-carts, snowmobiles, campers and dune buggies. This section relative to motor vehicles shall apply to the total sound level emitted by a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Code relating to motor vehicle mufflers for noise control. No person shall operate or cause to be operated a motor vehicle unless the exhaust system of such vehicle is:

(1) Free from defects which may affect sound level magnification;
(2) Equipped with a muffer; and
(3) Not modified in a manner which will amplify or increase the sound level emitted by the motor of such vehicle above that emitted by a muffer of the type originally installed on the vehicle as manufactured for initial sale.

The standard measurement height shall be four (4) feet (1.2 meters) and the measurement distance twenty-five (25) feet (7.5 meters). The distance shall be measured from the near side of the nearest monitored traffic lane to the microphone.

(d) Sound level measurements shall be undertaken with a sound level meter of Type 2 or better as specified in American National Standards Institute, using the A-weighted network scale. A field use acoustical calibrator shall be used to verify calibration of the sound level meter before and after noise measurements are taken any day.

(Ord. No. 2285, § 1, 8-23-88)

Sec. 26-7. - Permit.

(a)
Application for a permit for relief from noise restrictions designated in this chapter, on the basis of undue hardship, may be made to the city manager or his authorized representative. Any such application shall set out clearly the conditions describing the undue hardship so alleged.

(b) A permit may be granted only upon sufficient and reliable showing in said application that such conditions indicate one or more of the following to be true:

(1) Additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or,

(2) The activity, operation, or noise source will be of temporary duration, and cannot be performed in a manner that would comply with other sections of this chapter; and,

(3) No other reasonable alternative is available to the applicant.

(c) A permit may be granted only for an effective time period of three (3) days or less, except in the case of construction and/or demolition, the effective time period of such permit shall not exceed thirty (30) days continuous time lapse. A permit may be renewed while the urgent necessity continues for three (3) days or less, except in the case of construction and/or demolition, said renewal shall not exceed thirty (30) days. Any such permit thus granted shall state all conditions upon which it may be granted including, but not limited to, effective date, time of day, location, limitations of personnel and/or equipment involved, and any other conditions or requirements the city manager may deem necessary to minimize the adverse effects upon the community or surrounding neighborhood.

Sec. 26-8. - Duties and responsibilities of municipal departments.

(a) All departments and agencies of the city shall, to the fullest extent consistent with other ordinances, carry out their programs in such a manner as to further the policy of this chapter and in cooperation with the enforcement of it.

(b) All departments whose duty it is to review and approve new projects or changes to existing projects, that result, or may result, in the production of excessive sound levels shall consult with the agent of enforcement prior to any such approval.

(c) Any written contract, agreement, purchase order, or other instrument whereby the city is committed to the expenditure of seven hundred fifty dollars ($750.00) or more in return for goods or services shall contain provisions requiring compliance with this chapter.
(d) Any product which has been certified by the Administrator of the United States Environmental Protection Agency pursuant to Section 15 of the Noise Control Act of 1972, including amendments subsequent thereto, as a low noise emission product and which he determines is suitable for use as a substitute, shall, by the city, be procured and used in preference to any other product, provided that such certified product is reasonably available and has a procurement cost which is not more than one hundred twenty-five (125) percent of the least expensive type of product for which it is certified as a substitute.

(e) All departments responsible for a capital improvements budget and program shall prepare an analysis of the noise impact of any proposed improvements in accordance with noise assessment guidelines established by the agent of enforcement. Proposed capital improvements include land acquisition, building construction, highway improvements, and utilities and fixed equipment installation.

Sec. 26-9. - Violation procedures.

(a) The procedures for enforcing the provisions of this chapter pertaining to stationary sources are as follows:

(1) A violation of this chapter shall be cause for a complaint to be filed with the municipal court.

(2) In lieu of the filing of a complaint, the enforcement officer may issue an abatement order to allow a reasonable time, not to exceed twenty-four (24) hours, to abate any source of sound alleged to be in violation of this chapter. An abatement order shall not be issued if the enforcement officer has reason to believe that there will not be compliance with said order.

(3) If the alleged violation of the provisions of this chapter are not abated as required by the abatement order, a complaint shall be filed with the municipal court against the alleged violator.

(b) The procedures for enforcing the provisions of this chapter pertaining to motor vehicles as set forth in Table II of section 26-12 are as follows:

(1) A violation of subsection (b) of section 26-6 shall be cause for a complaint to be filed with the municipal court.

(2)
The violator may decide to effect a repair or bring the vehicle into compliance prior to the arraignment date. It will be the responsibility of the enforcement officer to test the vehicle for compliance and, on being found in compliance, recommend dismissal to the court, on first offenses only.

(c) In order to implement and enforce this chapter and for the general purpose of noise abatement and control, the enforcement officer or his representative shall have in addition to any other authority vested in him, the power to:

(1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

(2) Stop any motor vehicle, motorcycle or motorboat reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order which may require the motor vehicle, motorcycle or motorboat to be inspected or tested as the enforcement officer may reasonably require.

(d) A contract or enforcement of the provisions of this chapter or any part thereof, may be drawn by the city with any qualified agency or person, public or private. Personnel performing noise-monitoring shall be satisfactorily enforcement-oriented by the police department and shall bear identification as agents of the city for the task at hand. Refresher re-training of such personnel in law enforcement orientation shall occur within the schedule of the police department.

(Ord. No. 2285, § 2, 8-23-88)

Sec. 26-10 - Penalty.

(a) Any person who violates any provision of this chapter shall upon conviction thereof be guilty of an offense against the city.

(b)
Each day of violation of any provision of this chapter shall constitute a single offense if the disturbance is continuous. If the disturbance is not continuous, each violation of any provision of this chapter shall constitute a separate offense, although committed on the same day.

Sec. 26-11. - Injunctive relief.

As an additional remedy, any activity, conduct, or the operation or maintenance of any device, instrument, vehicle or machinery which is continuing in nature and in violation of any ordinance provision hereof, and which causes discomfort or annoyance, or which endangers the comfort, repose, health or peace of residents in the area, or which exceeds the community noise standards as set forth in section 26-6 shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Further, an injunction or restraining order may be issued pursuant to the statutes of the state.

Sec. 26-12. - Tables.

The following tables shall apply to the provisions of this chapter:

**TABLE I—LIMITING SOUND LEVELS FOR LAND USE DISTRICTS**

<table>
<thead>
<tr>
<th>Zoning District Classifications</th>
<th>Day's Time Subdivision</th>
<th>Sound Level Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>7:00 A.M.—10:00 P.M.</td>
<td>55 dBA</td>
</tr>
<tr>
<td></td>
<td>10:00 P.M.—7:00 A.M.</td>
<td>50 dBA</td>
</tr>
<tr>
<td>Commercial or</td>
<td>7:00 A.M.—10:00 P.M.</td>
<td>60 dBA</td>
</tr>
<tr>
<td>Office</td>
<td>10:00 P.M.—7:00 A.M.</td>
<td>55 dBA</td>
</tr>
<tr>
<td>Industrial or</td>
<td>7:00 A.M.—10:00 P.M.</td>
<td>70 dBA</td>
</tr>
<tr>
<td>Agricultural</td>
<td>10:00 P.M.—7:00 A.M.</td>
<td>70 dBA</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------------</td>
<td>--------</td>
</tr>
</tbody>
</table>

TABLE II—SOUND PRESSURE LEVEL LIMITS FOR MOTOR VEHICLES
(Measured at 25 feet or 7.6 meters)

<table>
<thead>
<tr>
<th>Vehicle Class</th>
<th>Sound Level dB(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Traveling 35 MPH or Less</td>
</tr>
<tr>
<td>Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by such motor vehicle.</td>
<td>87</td>
</tr>
<tr>
<td>Motorcycles</td>
<td>77</td>
</tr>
<tr>
<td>Any other motor vehicle or any combination of vehicles towed by any such motor vehicle.</td>
<td>77</td>
</tr>
</tbody>
</table>

(Ord. No. 2285, § 3, 8-23-88)
ORDINANCE NO. ___________

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 28, ARTICLE II, OFFENSES AGAINST MORALS, BY AMENDING SECTION 20; DISORDERLY HOUSE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR REPEALER, SEVERABILITY.

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

ORDINANCE

Section 1. That the Midwest City Municipal Code, Chapter 28, Article II, Section 20 is hereby amended to read as follows:

Section 28-20. – Disorderly house.

(a) It shall be unlawful for any person to keep, maintain, reside, or otherwise make available any disorderly house or to aid or assist another in keeping, maintaining or residing in such house.

(b) As used herein the term “disorderly house” shall refer to residential property only and shall include any brothel, bawdy house, house of ill fame, gaming house, house of assignation or house or room where persons congregate to unlawfully:

(1) Engage in drinking intoxicating or non-intoxicating beverages;

(2) Inhale or ingest any compound, liquid or chemical, salt, isomer and salt of isomer prohibited under the Oklahoma Controlled Dangerous Substances Act, 63 O.S. § 2-204 and § 2-206, not already prohibited under sections 28-130 or 28-131 of this Code, including but not limited to, specific substances prohibited therein and/or defined as opiates, opium derivatives, any level of a hallucinogenic substance, any quantity of substances having a stimulant or depressant effect on the central nervous system, any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist, which may be used or consumed by a person for the purpose of inducing a condition of intoxication, distortion or disturbance of the auditory, visual or mental processes.

“Disorderly house” shall also include any property on which three or more nuisance violations have occurred within a floating 90-day period, which shall begin on the date of a violation, which result in convictions. A new floating 90-day period shall begin at the time that there is a change of tenant or other person responsible for the property. “Nuisance violation” shall be any felony or a violation of:

(3) Sec. 28-1. - Aiding in offense.

(4) Sec. 28-2. - Attempt to commit offense.

(5) Sec. 28-21. - Gambling.

(6) Sec. 28-22. - Indecent exposure.

(7) Sec. 28-25. - Public intoxication.

(8) Sec. 28-26. - Soliciting for illegal purpose.

(9) Sec. 28-27. - Procurers and pimps.

(10) Sec. 28-28. - Urination in public.
Solicitation of drinks.

Obscene material and displaying material harmful to minors.

Assault.

Assault and battery.

Throwing objects at persons prohibited.

Obscene, threatening or harassing telephone calls; penalty.

Trespass.

Squatting on public or private property.

Parking on private property without consent.

Malicious injury or destruction of property.

Altering, removing or tampering with utility property prohibited.

Injuring or molesting automobiles prohibited.

Damaging buildings.

Damaging letter boxes and posts prohibited.

Molesting meter boxes; using meter box key.

Damaging hydrants or water pipes prohibited.

Damaging public lamps, poles, signs, etc. prohibited.

Interfering with water pipes.

Concealing lost property.

Bringing stolen property into city.

Throwing objects at vehicles prohibited.

Receiving and/or concealing stolen property.

Sleeping in certain places.

Resisting or interfering with an officer.

Eluding a police officer.

Impersonating officers.

False police calls; tampering with alarm boxes.

False 911 calls prohibited.

Threatening or assaulting officers.

Disorderly conduct.

Obstruction of streets or sidewalks.

Fighting.

Display of firearms prohibited.

Discharge of bows and arrows prohibited; exception.

Pointing or discharging firearms, etc.

Allowing or encouraging a minor to commit offenses; penalty.

Parental responsibility; failure to control; penalty.
(48) Sec. 28-124. - Commission of a crime in the presence of minors; penalty.
(49) Sec. 28-125. - Permitting crimes or disorderliness on premises; penalty.
(50) Sec. 28-127. - Furnishing tobacco products to minors; minors in possession of tobacco products; penalty.
(51) Sec. 28-128. - Permitting or allowing gatherings where minors are consuming alcohol containing beverages.
(52) Sec. 28-130. - Possession of dangerous drugs.
(53) Sec. 28-131. - Possession and sale of certain toxins and other drugs prohibited.
(54) Sec. 28-132. - Possession or sale of drug related paraphernalia.
(55) Sec. 28-132.1. - Maintaining a drug house prohibited.
(56) Sec. 26-3. - Prohibited generally [noise].

(b) As used in this chapter the term "disorderly house" shall mean any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

(1) the sale, distribution, or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by State statute; or

(2) the violation of any ordinance or State statutes regulating the sale, distribution, possession or use of alcoholic beverages; or

(3) the performance of any sexual act declared unlawful by ordinance or State statute, including, but not limited to, soliciting for purposes of prostitution; or

(4) the violation of any ordinance or State statute prohibiting gambling; or

(5) final conviction of any Section 28 of the Midwest City Ordinance offenses.

(c) It shall not be considered a nuisance violation to report unlawful conduct.

(c) For the purposes of this section, the term "structure" shall include not only a building but also the premises upon which the structure is located, including all property within the curtilage, and all parking and pedestrian access portions and any other outdoor areas controlled by the owner or occupant of the structure.

(d) A property owner not in possession of his/her property is only in violation of this section if s/he intentionally continues to make available his/her property to anyone violating the provisions of this section. For the purpose of this ordinance intent means knowledge of the nuisance violations occurring on the property.

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

(e) Any property owner charged with violating the provisions of this section may submit a property improvement plan to the municipal judge compliance with which may serve as a condition of a deferred sentence. The judge shall have the discretion to determine whether such property improvement plan will likely preclude the commission of further nuisance violations on the subject property.

(e) The occurrence of any act in any house, building, structure, tent, vehicle, mobile home, or recreational vehicle which results in the conviction of any person in the Municipal Court for a violation of this section shall, after the lapse of 30 days from such conviction, constitute notice to all owners, lessors, and other persons having control thereof that such premises are being occupied as a disorderly house. However, no such notice as contemplated by this subsection shall be effective unless written notice of such conviction shall have been delivered in person to such owner, lessee, or other person having control over such premises by a duly authorized officer of the Police Department.

(f) Any person required to discontinue any lease or permitted use of property by Subsections (d) and/or (e) herein shall not accept any rents, fees, profits or consideration of any type from the lessees or other persons or corporations occupying or in control or possession of the premises at the time the disorderly house requiring such discontinuance of lease or permitted use occurred. Each day for which such rent, fee, profit or consideration is accepted shall constitute a separate offense.

(g) No person shall knowingly reside in, enter into, or remain in a disorderly house.

(h) A separate offense shall be deemed committed on each day during or on which a violation of this division occurs or continues.

Section 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after the ______ day of _____________, 2020.

Section 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 ________, 2020.
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 May, 2020.

________________________________________
HEATHER POOLE, City Attorney
ORDINANCE NO. ___________

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 28, ARTICLE II, OFFENSES AGAINST MORALS, BY AMENDING SECTION 20; DISORDERLY HOUSE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR REPEALER, SEVERABILITY.

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(b) As used in this chapter the term "disorderly house" shall mean any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

(1) the sale, distribution, or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by State statute; or

(2) the violation of any ordinance or State statutes regulating the sale, distribution, possession or use of alcoholic beverages; or

(3) the performance of any sexual act declared unlawful by ordinance or State statute, including, but not limited to, soliciting for purposes of prostitution; or

(4) the violation of any ordinance or State statute prohibiting gambling; or

(5) final conviction of any Section 28 of the Midwest City Ordinance offenses.

(c) For the purposes of this section, the term "structure" shall include not only a building but also the premises upon which the structure is located, including all property within the curtilage, and all parking and pedestrian access portions and any other outdoor areas controlled by the owner or occupant of the structure.

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

(e) The occurrence of any act in any house, building, structure, tent, vehicle, mobile home, or recreational vehicle which results in the conviction of any person in the Municipal Court for a violation of this section shall, after the lapse of 30 days from such conviction, constitute notice to all owners, lessors, and other persons having control thereof that such premises are being occupied as a disorderly house. However, no such notice as contemplated by this subsection shall be effective unless written notice of such conviction shall have been delivered in person to such owner, lessee, or other person having control over such premises by a duly authorized officer of the Police Department.

(f) Any person required to discontinue any lease or permitted use of property by Subsections (d) and/or (e) herein shall not accept any rents, fees, profits or consideration of any type from the lessees or other persons or corporations occupying or in control or possession of the premises at the time the disorderly house requiring such discontinuance of lease or permitted use occurred. Each day for which such rent, fee, profit or consideration is accepted shall constitute a separate offense.

(g) No person shall knowingly reside in, enter into, or remain in a disorderly house.

(h) A separate offense shall be deemed committed on each day during or on which a violation of this division occurs or continues.

Section 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after the ______ day of _____________, 2020

Section 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 ________, 2020.

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 April, 2019.

________________________________________
HEATHER POOLE, City Attorney
AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 3, GENERAL PROVISIONS, 1-15 SPECIFIC PENALTY FOR VIOLATIONS OF CODE; ESTABLISHING AN EFFECTIVE DATE; 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, Section 1-15, Specific Penalty for violations of Code is hereby amended to read as follows:

Sec. 1-15.- Specific penalty for violations of Code

The following table is adopted with regard to specific violations of this Code, including the maximum fine and imprisonment for each specific offense:

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Section</th>
<th>Maximum Fine ($)</th>
<th>Imprisonment</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>28-57</td>
<td>600.00</td>
<td>60 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>First Offenses</strong></td>
<td><strong>60 days</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Second Offenses</strong></td>
<td><strong>60 days</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Third Offenses</strong></td>
<td><strong>60 days</strong></td>
</tr>
</tbody>
</table>

Section 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after the ______ day of ______________, 2020.

Section 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 ________, 2020.

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 __________, 2020

________________________________________
HEATHER POOLE, City Attorney
AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 3, GENERAL PROVISIONS, 1-15 SPECIFIC PENALTY FOR VIOLATIONS OF CODE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR REPEALER AND SEVERABILITY.

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

ORDINANCE

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<thead>
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<th>Section</th>
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<td>28</td>
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<tr>
<td></td>
<td></td>
<td>600.00</td>
<td>60 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>750.00</td>
<td>60 days</td>
</tr>
</tbody>
</table>

Section 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after the _____ day of _____________, 2020.

Section 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 ________, 2020.

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 __________, 2020

________________________________________
HEATHER POOLE, City Attorney
TO: Chair and Committee members
FROM: Heather Poole, City Attorney
Date: May 28, 2020
Subject: Discussion of research related to amending Midwest City Ordinance 28-54 Trespass.

The City Prosecutor researched Midwest City and Oklahoma City’s Trespass Ordinances to see if there were steps that could be taken to reduce the safety issues related to individuals remaining under the overpasses within the City limits. Having reviewed both trespass ordinances, she didn’t see much difference between them.

Under Midwest City Ordinance 28-54(a)(2) any entry upon the premises of an owner or other person in lawful possession or control of the premises or government in violation and contrary to the provisions of any official sign posted to regulate and govern such entry ...However, the posted sign notice only applies to public property - that which is dedicated to the public use and over which the federal, state or municipal governments ... exercises control and dominion. Signs may be posted on bridges - as public property. Therefore no updates are needed to Midwest City’s ordinance

Respectfully,

Heather Poole

Heather Poole, City Attorney
Sec. 28-54. - Trespass.

(a) No person shall trespass on public property or school property. As used in this subsection:

(1) Public property shall mean that property which is dedicated to the public use and over which the federal, state or municipal governments or any political subdivision thereof exercises control and dominion.

(2) Trespass shall mean each and every actual entry upon the premises of an owner or other person in lawful possession or control of the premises or government in violation and contrary to the provisions of any official sign posted to regulate and govern such entry or use or contrary to a lawful command to leave the premises by a government official having authority to issue such lawful command.

(3) Official sign shall mean any permanently affixed notice posted by the federal, state or municipal government owning or maintaining any public property.

(4) School property shall mean any property or institution devoted primarily to the education of children from pre-school thorough the twelfth grade.

(b) No person shall trespass on private property. As used in this subsection, "private property" shall mean any property other than public property.

(c) Trespass, as further defined in subsections (a) and (b) above, shall also mean:

(1) Each and every entry upon the private property of the owner or other person in lawful possession or control of the premises without the express consent of the owner or other person in lawful possession;

(2) Remaining on private property of an owner or other person in lawful possession or control of the premises after being told to leave the premises by the owner, agent, employee of the owner or other person having lawful possession or control of the premises;

(3) Remaining on private property at any time outside the posted hours of business operation after having been directed to vacate such premises by a police officer, except for those persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises, provided the hours of operation are clearly posted upon such premises;

(4) Returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection;

(5) Remaining on premises, whether public or private, when such is posted forbidding said act at any time other than during the posted hours of business operation;

(6) Remaining on public property after having been given a lawful order or command to leave the premises by a governmental official having the authority to give such order or command in response to a public disturbance, act of vandalism, disorderly conduct, or other conduct which is disruptive to the public peace; or

(7) Returning to public property after having been directed to vacate such premises under subsection (6).
(d) Any person violating any provision of this section shall be punished by a fine or imprisonment in accordance with section 1-15 of this Code, plus costs, or by both such fine and imprisonment.

(Code 1972, § 23-62; Ord. No. 1906, § 1, 10-25-83; Ord. No. 1980, § 1, 8-28-84; Ord. No. 2374, § 1, 10-24-89; Ord. No. 3005, § 5, 12-12-06)

State Law reference— Trespass, 21 O.S. § 1835; penalty for ordinance violations, 11 O.S. § 14-111.

Sec. 28-55. - Squatting on public or private property.

Every person who intrudes or squats upon any lot or piece of land within the city without license or authority from the owner thereof, or who erects or occupies thereon any hut, hovel, shanty, or other structure without such license or authority, and every person who places, erects or occupies within the bounds of any street, alley or avenue of the city any hut, hovel, shanty, or other structure whatever is guilty of an offense.

(Code 1972, § 23-62; Ord. No. 1906, § 1, 10-25-83)

State Law reference— Similar provisions, 21 O.S. § 1353.
ARTICLE III. - OFFENSES AGAINST PROPERTY

§ 30-31. - Definitions.

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

(1) Embezzlement means the fraudulent appropriation of property of any person or entity, legally obtained for any use or purpose not intended by its owner, or the secretion of the property with the fraudulent intent to appropriate it for such use or purpose, under any of the following circumstances:

(a) Where the property was obtained by being entrusted to that person or legal entity for a specific purpose, use or disposition, and shall include, but not be limited to, any funds "held in trust" for any purpose; or

(b) Where the property is intended to be used for a public or benevolent purpose.

Embezzlement does not require a distinct act of taking, but only a fraudulent appropriation, conversion or use of property;

(2) Larceny means the taking of private or public property accomplished by fraud or stealth, with the intent to deprive another thereof;

(3) Private property means any property other than public property;

(4) Public disturbance means any of the following conduct on public or private property:

(a) Creating a hazardous condition or unnecessary risk to the public;

(b) Causing public alarm without justification;

(c) Defacing, injuring or otherwise temporarily damaging or altering any public or private property without lawful permission;

(d) Intentionally obstructing, impeding or in any way inhibiting access to an entrance to a public building or pedestrian on a right-of-way or parking lot;

(e) Intentionally obstructing, impeding or in any other way inhibiting vehicles or pedestrian traffic upon any street, highway, sidewalk or parking lot;

(f) Fighting or violent or threatening behavior or engaging in, promoting, instigating, encouraging, aiding or abetting fighting, or any similar violent, threatening behavior;

(g) Disrupting any lawful assembly or meeting of persons without lawful authority;

(h) Making any loud or unusual noises, or using any abusive or violent language directed at any person, or threatening to fight or quarrel or challenging anyone else to fight, or shooting off or brandishing any firearms;

(i) Any act by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to the sale, distribution, possession or use of any
controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by State statute;

(j) Any act by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to the violation of any ordinance or State statutes regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one percent alcohol by volume;

(k) Any act by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to the performance of any sexual act declared unlawful by ordinance or State statute, including, but not limited to, soliciting for purposes of prostitution; or

(l) Any act by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to the violation of any ordinance or State statute prohibiting gambling.

(5) Public property means that property which is dedicated to the public use and over which the Federal, State, or municipal government, or any political subdivision thereof, exercises control and dominion, including school property;

(6) School property means any property or institution devoted primarily to the education of children from preschool through the 12th grade; and

(7) Trespass shall mean any of the following:

(a) Each and every actual entry upon the public or private property without the express or the implied consent of the owner or other person responsible for the property or when there are "no trespassing" signs duly posted upon said property; or

(b) Remaining upon private property after having been told to leave the premises by the owner, or other person responsible for the property, or the police in the event of a public disturbance in a parking lot; or

(c) Remaining or otherwise being on private or public property at any time other than during posted hours of operation.

(d) Notwithstanding Subsections (a), (b) and (c) of this section, where the owner or other responsible person in lawful possession of any private property is present and available, the owner or other person responsible for the property shall be required to sign a complaint and make a citizen's arrest for trespassing.

(Code 1970, § 21-117; Ord. No. 17034, § 1, 1-18-83; Code 1980, § 30-31; Ord. No. 19296, § 1, 10-3-89; Ord. No. 22883, § 1, 11-22-05; Ord. No. 23677, § 1, 8-26-08; Ord. No. 24185, § 1, 11-9-10)


§ 30-32. - Trespass on private property.No person shall trespass on private property.


State Law reference— Trespass, 21 O.S. § 1835 et seq.
§ 30-33. - Unlawful possession of or trespass on City property.

No person shall unlawfully take possession of any property, real or personal, belonging to the City, or which the City shall be entitled to possess or commit any willful trespass thereon, or unlawfully withhold possession from the City. The unlawful withholding or possession of any property mentioned shall be deemed a separate and new offense for every day the possession is withheld after the demand.

(Code 1970, § 21-131; Code 1980, § 30-33)

State Law reference— Trespass, 21 O.S. § 1835 et seq.

§ 30-34. - Trespass on school property.

No person shall trespass on school property.

(Code 1980, § 30-33.1; Ord. No. 19296, § 2, 10-3-89)

State Law reference— Trespass, 21 O.S. § 1835 et seq.

§ 30-35. - Trespass on public property.

No person shall trespass on public property.


State Law reference— Trespass, 21 O.S. § 1835 et seq.

§ 30-35.1. - Entering on certain posted public property.

(a) No person, other than persons exempted in Subsection (b) of this section, shall enter or remain on any public property, on which signs have been posted prohibiting the possession of any weapons on said public property, who has possession of any illegal weapons, other than firearms.

(b) The provisions of this section shall not apply to commissioned peace officers or duly CLEET licensed armed security personnel who are under contract with the posting entity, which owns, controls, leases or operates the posted premises.

(c) Any person guilty of violating this section shall be guilty of a Class "b" offense.

(Ord. No. 20509, § 1, 1-9-96; Ord. No. 21845, § 1, 11-6-01; Ord. No. 22883, § 1, 11-22-05)

State Law reference— Right of person to control weapons on property owned by such person, 21 O.S. § 1290.22.

§ 30-35.2. - Penalties for trespassing.

(a) Any person guilty of trespassing upon private, public, school, or other duly posted property shall upon conviction for the first offense, be guilty of a Class "a" offense.

(b) Any person guilty of a second and/or subsequent offense of trespassing upon private, public, school or other duly posted property after a prior conviction of trespassing on the same property shall upon conviction of the second and/or subsequent offense be guilty of a Class "b" offense.
(c) Any person guilty of trespassing on private, public or school property at any time other than during posted hours of operation, and who fails to leave immediately after having been told by a police officer in person or by means of a public address system to leave the premises, shall be guilty of a Class "b" offense.

(Ord. No. 22883, § 3, 11-22-05; Ord. No. 23677, § 1, 8-26-08)

§ 30-35.3. - Defenses to trespassing.

It is a defense to prosecution for "trespassing" on private property that a person at the time of the violation:

(1) Has permission from the owner or person in lawful possession or control of the property, to be on the property contrary to posted notice of "no trespassing" and the business hours;

(2) Had lawful authority as a matter of law to be present, including but not limited to utility easement repair, judicial order or license; or

(3) An emergency or necessity reasonably requires that person's presence on the property in order to prevent a different and greater or more significant and immediate harm to that person or someone else