



ADDENDUM TO THE CITY COUNCIL AGENDA

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

February 23, 2021 – 6:00 PM

D. **DISCUSSION ITEMS continued.**

- 7.** Discussion and consideration of a resolution and proclamation of the City of Midwest City, Oklahoma, approving and proposing amendments to the Charter of the City of Midwest City, Oklahoma; approving the ballot title; authorizing the calling and holding of a special election in the City of Midwest City, County of Oklahoma, State of Oklahoma on May 11, 2021 for the purpose of submitting to the qualified electors of the City of Midwest City, Oklahoma the question of whether to approve the proposed amendments to the Charter; providing for publication of the proposed charter amendments; and providing for submission of any approved Charter amendments to the Governor. (City Attorney - H. Poole)
- 8.** Discussion and consideration of approving 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. (City Attorney - H. Poole)
- 9.** Discussion and consideration of approving an ordinance amending the Midwest City Municipal Code, Chapter 11, Emergency Management, by adopting Section 11-3, Powers of City Manager During Declared Emergency; and providing for severability. (City Attorney - H. Poole)
- 10.** Discussion and consideration of 1) acceptance of an Association of Central Oklahoma Governments Public Fleet Conversion grant in the amount of \$59,531.00; 2) approving and entering into a Public Fleet Conversion Grant Contract with ACOG to establish the terms and conditions of the grant for the provision of reimbursement of certain costs incurred for the purchase of (1) new, Compressed Natural Gas (CNG) truck and 3) authorization of the Mayor and/or City Manager to enter into the necessary contracts/ agreements to implement the grant.



City Attorney

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TO: Mayor and Council Members

FROM: Heather Poole, City Attorney

Date: February 23, 2021

Subject: Discussion and consideration of a resolution and a proclamation of the City of Midwest City, Oklahoma, approving and proposing amendments to the Charter of the City of Midwest City, Oklahoma; approving the ballot title; authorizing the calling and holding of a special election in the City of Midwest City, County of Oklahoma, State of Oklahoma on May 11, 2021 for the purpose of submitting to the qualified electors of the City of Midwest City, Oklahoma the question of whether to approve the proposed amendments to the Charter; providing for publication of the proposed charter amendments; and providing for submission of any approved Charter amendments to the Governor.

At the request of Mayor Dukes, the research and proposed drafts of Charter changes suggested by the prior City Prosecutor, Mary Ann Karns, and prior City Clerk, Rhonda Atkins, and changes that bring the City's Charter into compliance with state statutes and/or OMAG recommendations the following Charter changes are being proposed. Community Development staff has also reviewed charter sections that relate to paving regulations and park lands and provided input on suggested changes. The Charter changes require a vote of the people and the Resolution approving those propositions is attached.

Respectfully,

Heather Poole

Heather Poole, City Attorney

RESOLUTION NO. 2021-__

A RESOLUTION OF THE CITY OF MIDWEST CITY, OKLAHOMA, APPROVING AND PROPOSING AMENDMENTS TO THE CHARTER OF THE CITY OF MIDWEST CITY, OKLAHOMA; APPROVING THE BALLOT TITLES; AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF MIDWEST CITY, COUNTY OF OKLAHOMA, STATE OF OKLAHOMA ON TUESDAY, MAY 11, 2021 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF MIDWEST CITY, OKLAHOMA THE QUESTION OF WHETHER TO APPROVE THE PROPOSED AMENDMENTS TO THE CHARTER; PROVIDING FOR PUBLICATION OF THE PROPOSED CHARTER AMENDMENTS; AND PROVIDING FOR SUBMISSION OF ANY APPROVED CHARTER AMENDMENTS TO THE GOVERNOR

RESOLUTION

WHEREAS, it is required that proposed amendments to the charter of the City of Midwest City be approved by the council of the City of Midwest City; and

WHEREAS, it is required that proposed amendments to the charter of the City of Midwest City be approved by the qualified electors at an election; and

WHEREAS, the council of the City of Midwest City is required to establish a date for such elections; and

WHEREAS, should the proposed amendments be approved by the electors at the election, the amendments, to take effect, must be submitted to the governor of the State of Oklahoma for his approval;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
MIDWEST CITY:

That the following amendment to the charter of the City of Midwest City is hereby approved and proposed to the qualified electors of the City by the mayor and council of the City:

1. THAT the following amendment to the charter of the City of Midwest City, Oklahoma, is hereby approved and proposed to the qualified electors of the City by the Mayor and the Council of the City:

Article II. Elective Officers,
Section 2. Councilmembers: Qualifications.

Councilmembers shall be qualified electors of the city at least twenty-five (25) years of age, must have been residents of the city for at least one (1) year next preceding

1 their election or appointment to fill vacancies, and must at the time of their election
2 or appointment to fill vacancies be residents in good faith of the respective wards
3 from which they are elected or appointed. Proof of residency shall be provided to the
4 City Clerk prior to a councilmember's swearing in for their current term. Proof of
5 residency are any two of the following type of documents: utility bills, homestead
6 exemption, lease agreement or other document that records residency. If a
7 councilmember ceases to be a resident of the city, or is convicted of a felony, or
8 enters a plea of guilty, or a plea of nolo contendere to a charge of felony, he/she
9 shall thereupon cease to be a councilmember. No councilmember may hold any
10 position in the city government by appointment by the city manager.

- 11
12 2. THAT the ballot title for this charter amendment shall be as follows:

13
14 Article II. Elective Officers,
15 Section 2. Councilmembers: Qualifications.

16 Councilmembers shall be qualified electors of the city at least twenty-five (25) years
17 of age, must have been residents of the city for at least one (1) year next preceding
18 their election or appointment to fill vacancies, and must at the time of their election
19 or appointment to fill vacancies be residents in good faith of the respective wards
20 from which they are elected or appointed. Proof of residency shall be provided to the
21 City Clerk prior to a councilmember's swearing in for their current term. Proof of
22 residency are any two of the following type of documents: utility bills, homestead
23 exemption, lease agreement or other document that records residency. If a
24 councilmember ceases to be a resident of the city, or is convicted of a felony, or
25 enters a plea of guilty, or a plea of nolo contendere to a charge of felony, he/she shall
26 thereupon cease to be a councilmember. No councilmember may hold any position
27 in the city government by appointment by the city manager.

- 28
29 3. THAT the following amendment to the charter of the City of Midwest City,
30 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
31 the Mayor and the Council of the City:

32
33 Article II. Elective Officers,
34 Section 12. Council: Quorum, Rules, Yeas and Nays.

35
36 A majority of the council shall constitute a quorum, but a smaller number may
37 adjourn from day to day. The council shall determine its own rules. On the demand
38 of any member, the vote on any question shall be by yeas and nays and shall be
39 entered in the journal. The vote of each individual member must be communicated as
40 either a Yea, Nay, Abstention or Recusal and each member's vote must be recorded.
41

1 4. THAT the ballot title for this charter amendment shall be as follows:
2

3 Article II. Elective Officers,
4 Section 12. Council: Quorum, Rules, Yeas and Nays
5

6 A majority of the council shall constitute a quorum, but a smaller number may
7 adjourn from day to day. The council shall determine its own rules. On the demand
8 of any member, the vote on any question shall be by yeas and nays and shall be
9 entered in the journal. The vote of each individual member must be communicated as
10 either a Yea, Nay, Abstention or Recusal and each member's vote must be recorded.
11

12
13 5. THAT the following amendment to the charter of the City of Midwest City,
14 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
15 the Mayor and the Council of the City:
16

17 Article II. Elective Officers is amended to add:
18 Section 18. Code of Conduct for Elected and Appointed Officials

19 For ease of reference, the term “member” refers to any member of the City Council,
20 City Boards, Committees and Commissions established by City ordinance or
21 Council policy.

22 (a) Acknowledgement of Code of Ethics and Conduct

23 An acknowledgement of Code of Ethics and Conduct shall be signed by each
24 councilmember upon being sworn in (or if already serving within 30 days of Sec 18
25 being enacted). Code of Conduct shall include items addressed in City Ordinance
26 and any other directives set out by Council and City Manager. All signed
27 acknowledgements shall be filed with the City Clerk. Councilmembers who do not
28 sign an acknowledgement shall be ineligible for intergovernmental assignments or
29 Council subcommittees. Board, Committee and Commission members who do not
30 sign an acknowledgement are not eligible to hold office.

31 (b) Ethics Training for Local Officials

32 Councilmembers, Board, Committee and Commission Members who are out of
33 compliance with State or City mandated requirements for ethics training shall not
34 represent the City on intergovernmental assignments or Council subcommittees, and
35 may be subject to sanctions.

36 (c) Behavior and Conduct

37 Reporting and sanction measures set out in the City of Midwest City’s Ordinances,
38 state and federal statutes shall be followed regarding behavior by members.
39

1 6. THAT the ballot title for this charter amendment shall be as follows:
2

3 Article II. Elective Officers,
4

5 Section 18. Code of Conduct for Elected and Appointed Officials.

6 For ease of reference, the term “member” refers to any member of the City Council,
7 City Boards, Committees and Commissions established by City ordinance or
8 Council policy.

9 (a) Acknowledgement of Code of Ethics and Conduct

10 An acknowledgement of Code of Ethics and Conduct shall be signed by each
11 councilmember upon being sworn in (or if already serving within 30 days of Sec 18
12 being enacted). All signed acknowledgements shall be filed with the City Clerk.
13 Councilmembers who do not sign an acknowledgement shall be ineligible for
14 intergovernmental assignments or Council subcommittees. Board, Committee and
15 Commission members who do not sign an acknowledgement are not eligible to hold
16 office.

17 (b) Ethics Training for Local Officials

18 Members who are out of compliance with State or City mandated requirements for
19 ethics training shall not represent the City on intergovernmental assignments or
20 Council subcommittees, and may be subject to sanctions.

21 (c) Behavior and Conduct

22 Reporting and sanction measures set out in the City of Midwest City’s Ordinances,
23 state and federal statutes shall be followed regarding behavior by members.

24 7. THAT the following amendment to the charter of the City of Midwest City,
25 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
26 the Mayor and the Council of the City:

27 Article III. City Manager and Administrative Departments

28 Section 3. City manager: Powers and duties.
29

30 The city manager shall be chief executive officer and head of the administrative branch
31 of the government. He/she shall execute the laws and administer the government of the
32 city, and shall be responsible therefor to the council. He/she shall:

33 (1) Appoint, and when necessary for the good of the service, remove all heads of
34 administrative departments and other administrative officers and employees of the
35 city except as otherwise provided in this Charter and except as he/she or the council
36 by ordinance may authorize the head of a department, an officer or an agency to
37 appoint and remove subordinates in such department, office or agency, subject to
38 such merit system regulations as the council may ordain;

- 1 (2) Supervise and control all administrative departments, offices and agencies, directly or
2 indirectly;
- 3 (3) Prepare a budget annually and submit it to the council, and be responsible for the
4 administration of the budget after it goes into effect;
- 5 (4) Submit to the council a report as of the end of the fiscal year on the finances and
6 administrative activities of the city for the preceding year;
- 7 (5) Keep the council advised of the financial condition and future needs of the city; make
8 monthly reports to the council as to delinquent accounts receivable and accounts
9 payable, and make such recommendations as may, to him/her, seem desirable;
- 10 (6) Prepare the agenda for the council meetings and furnish necessary data and facts for
11 decisions;
- 12 (7) Perform such other duties as this Charter may prescribe and such duties as the council
13 may prescribe, consistent with this Charter.
- 14 (8) (a) The City Manager, during the existence of a state of emergency, by proclamation,
15 may, in the area affected by public disorder, disaster, or riot at the time the
16 proclamation is issued, prohibit activities that he/she may reasonably believe
17 should be prohibited to help preserve and maintain life, health, property or the
18 public peace.
- 19 (b) In imposing the restrictions provided for in this section, the City Manager may
20 impose them for such times, upon such conditions, with such exceptions and in
21 such areas he/she from time to time deems necessary.

22

23 8. THAT the ballot title for this charter amendment shall be as follows:

24 Article III. City Manager and Administrative Departments

25 Section 3. City manager: Powers and duties.

- 26
- 27
- 28 (8) (a) The City Manager, during the existence of a state of emergency, by
29 proclamation, may, in the area affected by public disorder, disaster, or riot at the
30 time the proclamation is issued, prohibit activities that he/she may reasonably
31 believe should be prohibited to help preserve and maintain life, health, property or
32 the public peace.
- 33 (b) In imposing the restrictions provided for in this section, the City Manager
34 may impose them for such times, upon such conditions, with such exceptions and
35 in such areas, he/she from time to time deems necessary.
- 36

- 1 9. THAT the following amendment to the charter of the City of Midwest City,
2 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
3 the Mayor and the Council of the City:
4

5 Article IV. Department of Finance, Fiscal Affairs,
6 Section 4. Property Valued at more than \$10,000 shall be repealed.
7

8 ~~The sale of any property, real or personal, or an interest therein, the value of which~~
9 ~~is more than ten thousand dollars (\$10,000.00), shall be made only by authority of a~~
10 ~~special ordinance. Such ordinance shall be published in full in a newspaper of~~
11 ~~general circulation within the city within ten (10) days after its passage, and shall~~
12 ~~include a section reading substantially as follows: "This ordinance shall be referred~~
13 ~~to a vote of the electors of the city if a proper referendum petition is properly filed~~
14 ~~within thirty (30) days after its passage; otherwise it shall go into effect thirty (30)~~
15 ~~days after its passage."~~

- 16
17 10. THAT the ballot title for this charter amendment shall be as follows:

18 Article IV. Department of Finance, Fiscal Affairs, Section 4. Property Valued at
19 more than \$10,000, shall be repealed and placed into reserve.

- 20 11. THAT the following amendment to the charter of the City of Midwest City,
21 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
22 the Mayor and the Council of the City:
23

24 Article V. Municipal Court,
25 Section 1. Municipal court.
26

27 There shall be ~~municipal judges who shall be officers of the city, appointed by the~~
28 ~~mayor from a list of candidates submitted by the council, and approved by a majority~~
29 ~~vote of all members of the city council for an indefinite term~~ a Municipal Court for
30 the City of Midwest City. The City Council, shall by ordinance, set and determine
31 the number, qualifications and terms of the judges, who shall be officers of the city.
32 ~~, may suspend or remove the municipal judges at any time by a vote of a majority of~~
33 ~~all its members. The municipal judges shall have original jurisdiction to hear and~~
34 ~~determine all cases involving offenses against the Charter and ordinances of the~~
35 ~~city; provided that the council, by ordinance, may create a minor violation bureau~~
36 ~~with authority to dispose of cases arising out of designated minor violations, such as~~
37 ~~minor traffic and parking violations, on request of accused persons who desire to~~
38 ~~plead guilty, who are willing and able to pay fines and costs, and who do plead~~
39 ~~guilty and pay fines and costs. The municipal judges shall keep a~~ Δ ~~record of all~~
40 ~~proceedings of the municipal court, of the disposition of all cases, and of all fines~~
41 ~~and other money collections shall be maintained by the Court staff. The style of all~~
42 ~~processes shall be in the name of the city. The municipal judges may administer~~

1 oaths, make and enforce all proper orders, rules and judgments, and punish for
2 contempt.

3
4 12. THAT the ballot title for this charter amendment shall be as follows:

5
6 Article V. Municipal Court,
7 Section 1. Municipal court.
8

9 There shall be a Municipal Court for the City of Midwest City. The City Council,
10 shall by ordinance, set and determine the number, qualifications and terms of the
11 judges, who shall be officers of the city. The municipal judges shall have original
12 jurisdiction to hear and determine all cases involving offenses against the Charter and
13 ordinances of the city. A record of all proceedings of the municipal court, of the
14 disposition of all cases, and of all fines and other money collections shall be
15 maintained by the Court staff. The style of all processes shall be in the name of the
16 city. The municipal judges may administer oaths, make and enforce all proper orders,
17 rules and judgments, and punish for contempt.
18

19 13. THAT the following amendment to the charter of the City of Midwest City,
20 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
21 the Mayor and the Council of the City:
22

23 Article VI. Nominations and Elections,
24 Section 2. Primary election: Filing.

25 Any qualified person may have his/her name placed on the ballot for the primary
26 election as a candidate for any city office by filing, not more than ninety (90) days
27 and at least sixty (60) days prior to the primary election for a special election, and no
28 fewer than fifteen (15) days for any regular municipal election, with the secretary of
29 the county election board, a sworn statement of his/her candidacy; provided that the
30 council by ordinance may require such statements to be filed with the city clerk
31 instead.

32 14. THAT the ballot title for this charter amendment shall be as follows:
33

34 Article VI. Nominations and Elections,
35 Section 2. Primary election: Filing.

36 Any qualified person may have his/her name placed on the ballot for the primary
37 election as a candidate for any city office by filing, not more than ninety (90) days
38 and at least sixty (60) days prior to the primary election for a special election, and no
39 fewer than fifteen (15) days for any regular municipal election, with the secretary of
40 the county election board, a sworn statement of his candidacy; provided that the
41 council by ordinance may require such statements to be filed with the city clerk
instead.

1 15. THAT the following amendment to the charter of the City of Midwest City,
2 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
3 the Mayor and the Council of the City:
4

5 Article VI. Nominations and Elections,
6 Section 6. Political activity of officers and employees.

7 Municipal employees may attend and express their views at city council meetings, or
8 any other public meetings of municipal entities.

9 Any municipal employee may actively participate in partisan and nonpartisan
10 political activities. Provided, the political activity in which the employee participates
11 shall be exercised only during off-duty hours and while not in uniform. Any federal
12 statutes restricting the political activities of certain municipal employees shall
13 supersede the provisions of this section as to such employees. Municipal
14 corporations may establish employment requirements requiring municipal
15 employees to refrain from filing as a candidate for public office while employed by
16 said municipality.

17 It shall be unlawful for the governing body or officer of any municipal corporation in
18 this state to directly or indirectly coerce or attempt to coerce any municipal
19 employee to participate or not to participate in municipal political activities or public
20 meetings.

21 Any person convicted of violating any of the provisions of this act shall be guilty of
22 a misdemeanor.

23 ~~No officer or employee of the city, except a councilman, may attempt to influence the~~
24 ~~nomination, election or defeat of any candidate for councilman except by the proper~~
25 ~~exercise of his right to vote. Any person who violates this provision, shall be~~
26 ~~punished, upon conviction thereof, by a fine not exceeding twenty dollars (\$20.00)~~
27 ~~inclusive of costs. Such violation shall constitute cause for removal from office or~~
28 ~~employment.~~

29
30
31 16. THAT the ballot title for this charter amendment shall be as follows:
32

33 Article VI. Nominations and Elections,
34 Section 6. Political activity of officers and employees.

35 Municipal employees may attend and express their views at city council meetings, or
36 any other public meetings of municipal entities.

37 Any municipal employee may actively participate in partisan and nonpartisan
38 political activities. Provided, the political activity in which the employee participates

1 shall be exercised only during off-duty hours and while not in uniform. Any federal
2 statutes restricting the political activities of certain municipal employees shall
3 supersede the provisions of this section as to such employees. Municipal
4 corporations may establish employment requirements requiring municipal
5 employees to refrain from filing as a candidate for public office while employed by
6 said municipality.

7 It shall be unlawful for the governing body or officer of any municipal corporation in
8 this state to directly or indirectly coerce or attempt to coerce any municipal
9 employee to participate or not to participate in municipal political activities or public
10 meetings.

11 Any person convicted of violating any of the provisions of this act shall be guilty of
12 a misdemeanor.

- 13 17. THAT the following amendment to the charter of the City of Midwest City,
14 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
15 the Mayor and the Council of the City:

16 Article VII. Miscellaneous Provisions,
17 Section 4. Nepotism, compatibility of offices.

18 Neither the city manager, the council nor any other authority of the city government,
19 may appoint or elect any person related to any councilman, the city manager, or to
20 him/herself or, in the case of plural authority, to one of its members, by blood or
21 marriage within the third degree, to any office or position of profit in the city
22 government.

23 However, the city manager may appoint him/herself, or the council may appoint or
24 elect him/her, to other offices and positions in the city government, subject to any
25 regulations which the council may make by ordinance; but he/she may not receive
26 compensation for service in such other offices or positions.

27 Except as may be otherwise provided by this Charter or by ordinance, the same
28 person may hold more than one (1) office or position of employment in the city
29 government. An employee may not hold an elected office or campaign for one while
30 employed by the City, nor shall an elected or appointed officer apply for employment
31 while holding such office.
32

- 33 18. THAT the ballot title for this charter amendment shall be as follows:

34 Article VII. Miscellaneous Provisions,
35 Section 4. Nepotism, compatibility of offices.

36 Neither the city manager, the council nor any other authority of the city government,
37 may appoint or elect any person related to any councilman, the city manager, or to
38 him/herself or, in the case of plural authority, to one of its members, by blood or
39

1 marriage within the third degree, to any office or position of profit in the city
2 government.

3 However, the city manager may appoint him/herself, or the council may appoint or
4 elect him/her, to other offices and positions in the city government, subject to any
5 regulations which the council may make by ordinance; but he/she may not receive
6 compensation for service in such other offices or positions.

7 Except as may be otherwise provided by this Charter or by ordinance, the same
8 person may hold more than one (1) office or position of employment in the city
9 government. An employee may not hold an elected office or campaign for one
10 while employed by the City, nor shall an elected or appointed officer apply for
11 employment while holding such office.

- 12 19. THAT the following amendment to the charter of the City of Midwest City,
13 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
14 the Mayor and the Council of the City:

15 Article VII. Miscellaneous Provisions,
16 Section 13. Residency shall be repealed.
17

18 ~~When possible the city manager shall provide that only residents of the city shall be~~
19 ~~employed in the service of the city and any resident of the city possessing~~
20 ~~qualifications for the position sought shall be given preference over any person~~
21 ~~residing outside the city.~~

- 22
23 20. THAT the ballot title for this charter amendment shall be as follows:

24 Article VII. Miscellaneous Provisions, Section 13. Residency, shall be repealed and
25 placed into reserve.

- 26 21. THAT the following amendment to the charter of the City of Midwest City,
27 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
28 the Mayor and the Council of the City:

29 Article VII. Miscellaneous Provisions,
30 Section 14. Publicity of records.
31

32 All records and accounts of every office, department or agency of the city
33 government, ~~except records and documents the disclosure of which would tend to~~
34 ~~defeat the lawful purposes which they are intended to accomplish, shall be open to~~
35 ~~public inspection.~~ shall be made accessible pursuant to the requirements set forth in
36 Oklahoma Open Records Act, Title 51 Oklahoma Statutes Sections 24A.1 et seq.
37

1 22. THAT the ballot title for this charter amendment shall be as follows:
2

3 Article VII. Miscellaneous Provisions,
4 Section 14. Publicity of records.
5

6 All records and accounts of every office, department or agency of the city
7 government, shall be made accessible pursuant to the requirements set forth in
8 Oklahoma Open Records Act, Title 51 Oklahoma Statutes Sections 24A.1 et seq.

9 23. THAT the following amendment to the charter of the City of Midwest City,
10 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
11 the Mayor and the Council of the City:
12

13 Article VII. Miscellaneous Provisions,
14 Section 16. Proclamation of State of Emergency.
15

16 (a) The City Council, after finding that a public disorder, disaster or riot exists
17 which affects life, health, property or the public peace, may proclaim a state of
18 emergency in the area affected. The proclamation of a state of emergency and
19 other proclamations issued pursuant to this section shall be in writing and shall
20 be signed by the Mayor and filed with the City Clerk.

21 (b) The City of Midwest City shall give as much public notice as practical through
22 the news media of the issuance of proclamations pursuant to this section.

23 (c) During the state of emergency, the City Manager shall have the authority to act
24 in accordance with the items listed in Section 2-126 Emergency Purchases, of
25 Article VIII of Chapter 2 of the City of Midwest City's Code of Ordinances
26 once the Council approves the state of emergency.

27 (d) The state of emergency shall cease to exist upon the issuance of a proclamation
28 of the City Council declaring its termination; provided that the City Council
29 shall terminate the proclamation when order has been restored in the area
30 affected.

31
32 24. THAT the ballot title for this charter amendment shall be as follows:
33

34 Article VII. Miscellaneous Provisions,
35 Section 16. Proclamation of State of Emergency.
36

37 (a) The City Council, after finding that a public disorder, disaster or riot exists
38 which affects life, health, property or the public peace, may proclaim a state of
39 emergency in the area affected. The proclamation of a state of emergency and
40 other proclamations issued pursuant to this section shall be in writing and shall
41 be signed by the Mayor and filed with the City Clerk.

(b) The City of Midwest City shall give as much public notice as practical through the news media of the issuance of proclamations pursuant to this section.

(c) During the state of emergency, the City Manager shall have the authority to act in accordance with the items listed in Section 2-126 Emergency Purchases, of Article VIII of Chapter 2 of the City of Midwest City's Code of Ordinances once the Council approves the state of emergency.

(d) The state of emergency shall cease to exist upon the issuance of a proclamation of the City Council declaring its termination; provided that the City Council shall terminate the proclamation when order has been restored in the area affected.

25. THAT the following amendment to the charter of the City of Midwest City, Oklahoma, is hereby approved and proposed to the qualified electors of the City by the Mayor and the Council of the City:

Article IX. Recall,
Section 2. Election.

~~The mayor and councilmen~~ councilmembers shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the results thereof declared in all respects as for other city elections. ~~The successors of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected at such election. If some person other than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualifications of his successor. In case the party who receives the highest number of votes shall fail to qualify within ten (10) days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The same method of removal shall be cumulative and additional to the methods heretofore provided by law. The question on the ballot is whether the subject of the petition is recalled. If the question passes, the council shall fill the remainder of the term for the vacancy by appointment.~~

26. THAT the ballot title for this charter amendment shall be as follows:

Article IX. Recall,
Section 2. Election.

The mayor and councilmembers shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted,

1 returned and the results thereof declared in all respects as for other city elections. The
2 question on the ballot is whether the subject of the petition is recalled. If the question
3 passes, the council shall fill the remainder of the term for the vacancy by
4 appointment.”

- 5
6 27. THAT the following amendment to the charter of the City of Midwest City,
7 Oklahoma, is hereby approved and proposed to the qualified electors of the City by
8 the Mayor and the Council of the City:
9

10 Article X. Parkland,

11 Section 1. Parkland, be repealed and placed into reserve.

12 ~~In addition to and in supplementation of proper planning and zoning, and in addition~~
13 ~~to the power of the city to regulate the use and subdivision of land, the city shall~~
14 ~~have the full power to promote the health, safety, and general welfare of its citizens~~
15 ~~by the enactment of ordinances, to be uniformly enforced, requiring all final plats of~~
16 ~~residential subdivisions containing a dwelling unit density of greater than one (1)~~
17 ~~unit per acre which is to be submitted for approval, to provide adequate and suitable~~
18 ~~land area for park and/or open space purposes to serve the subdivision. The amount~~
19 ~~of park and/or open space required in the subdivision shall be reasonably related to~~
20 ~~the need for park and/or open space created by the subdivision and shall not exceed~~
21 ~~two (2) acres for each one thousand (1,000) persons of the total population density~~
22 ~~projected when the plat is fully developed. Population density projections shall be~~
23 ~~based on the then current official statistics of the United States Census for the~~
24 ~~Midwest City area for the particular type of dwelling units to be constructed within~~
25 ~~the subject land. When the total projected population density for the plat is less than~~
26 ~~twenty-five hundred (2,500) persons, the City of Midwest City may, in its sole~~
27 ~~option and in lieu of the provision for mandatory dedication of land for park and/or~~
28 ~~open space purposes, require the developer or subdivider of the subdivision to pay to~~
29 ~~the city a sufficient fee to provide for the purchase of suitable land for park and/or~~
30 ~~open space within the general area in which the subdivision is located. Such fee shall~~
31 ~~be reasonably related to the cost of the park and/or open space which is required to~~
32 ~~be provided. All such fees shall be maintained separate from other funds of the City~~
33 ~~of Midwest City and may be expended only for the purchase of land for park and/or~~
34 ~~open space. The exercise of such power within the city shall be in pursuance of this~~
35 ~~grant of authority and not under state statutes of law.~~

- 36
37 28. THAT the ballot title for this charter amendment shall be as follows:
38

39 Article X. Parkland, Section 1. Parkland, shall be repealed and placed into reserve.
40

29. That the above charter amendments and repeals shall be submitted to the qualified electors of the city of Midwest City at a special election which shall be held on Tuesday, May 11, 2021;

30. That the above charter amendments and repeals shall be published in full once per week for three (3) consecutive weeks in the Midwest City Beacon from the 7th of April, 2021 until the 21st day of April, 2021 and that the election shall be held no less than twenty (20) days nor more than thirty (30) days after the last publication; and

31. That, if a majority of the votes cast in the election on the charter amendments are in favor of adopting the proposed amendments to the charter, the charter shall be so amended, certified and authenticated by the mayor, and submitted to the governor for his approval.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City,
Oklahoma, on the _____ day of _____, 2021.

CITY OF MIDWEST CITY, OKLAHOMA

MATTHEW D. DUKES, II, Mayor

ATTEST:

SARA HANCOCK, City Clerk

APPROVED as to form and legality this _____ day of _____, 2021.

HEATHER POOLE, City Attorney

SPECIAL ELECTION PROCLAMATION #2

Pursuant to Resolution No. 2021-_____, duly adopted February 23, 2021 by the governing body of the City of Midwest City, Oklahoma, the undersigned mayor of the city hereby authorizing calling of a special election on the propositions hereinafter set forth and give notice thereof to be held in the City of Midwest City, Oklahoma, on the 11th day of May 2021, for the purpose of submitting to all of the registered qualified electors residing within the city the following propositions, which has since been open to public inspection in the City Clerk's Office, and published in full once per week for three (3) consecutive weeks in the Midwest City Beacon from the 7th day of April, 2021, until the 21st day of April, 2021:

PROPOSITION 2

Article II. Elective Officers,
Section 2. Councilmembers: Qualifications.

Councilmembers shall be qualified electors of the city at least twenty-five (25) years of age, must have been residents of the city for at least one (1) year next preceding their election or appointment to fill vacancies, and must at the time of their election or appointment to fill vacancies be residents in good faith of the respective wards from which they are elected or appointed. Proof of residency shall be provided to the City Clerk prior to a councilmember's swearing in for their current term. Proof of residency are any two of the following type of documents: utility bills, homestead exemption, lease agreement or other document that records residency. If a councilmember ceases to be a resident of the city, or is convicted of a felony, or enters a plea of guilty, or a plea of nolo contendere to a charge of felony, he/she shall thereupon cease to be a councilmember. No councilmember may hold any position in the city government by appointment by the city manager.

PROPOSITION 3

Article II. Elective Officers,
Section 12. Council: Quorum, Rules, Yeas and Nays.

A majority of the council shall constitute a quorum, but a smaller number may adjourn from day to day. The council shall determine its own rules. On the demand of any member, the vote on any question shall be yeas and nays and shall be entered in the journal. The vote of each individual member must be communicated as either a Yea, Nay, Abstention or Recusal and each member's vote must be recorded.

PROPOSITION 4

Article II. Elective Officers,
Section 18. Code of Conduct for Elected and Appointed Officials.

For ease of reference, the term "member" refers to any member of the City Council, City Boards, Committees and Commissions established by City ordinance or Council policy.

(a) Acknowledgement of Code of Ethics and Conduct

An acknowledgement of Code of Ethics and Conduct shall be signed by each councilmember upon being sworn in (or if already serving within 30 days of Sec 18 being enacted). All signed acknowledgements shall be filed with the City Clerk. Councilmembers who do not sign an acknowledgement shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement are not eligible to hold office.

(b) Ethics Training for Local Officials

Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees, and may be subject to sanctions.

(c) Behavior and Conduct

Reporting and sanction measures set out in the City of Midwest City’s Ordinances, state and federal statutes shall be followed regarding behavior by members.

PROPOSITION 5

Article III. City Manager and Administrative Departments,
Section 3. City manager: Powers and duties.

- (8) (a) The City Manager, during the existence of a state of emergency, by proclamation, may, in the area affected by public disorder, disaster, or riot at the time the proclamation is issued, prohibit activities that he/she may reasonably believe should be prohibited to help preserve and maintain life, health, property or the public peace.
- (b) In imposing the restrictions provided for in this section, the City Manager may impose them for such times, upon such conditions, with such exceptions and in such areas, he/she from time to time deems necessary.

PROPOSITION 6

Article IV. Department of Finance, Fiscal Affairs, Section 4. Property Valued at more than \$10,000, shall be repealed and placed into reserve.

PROPOSITION 7

Article V. Municipal Court,
Section 1. Municipal court.

There shall be a Municipal Court for the City of Midwest City. The City Council, shall by ordinance, set and determine the number, qualifications and terms of the judges, who shall be officers of the city. The municipal judges shall have original jurisdiction to hear and determine all cases involving offenses against the Charter and ordinances of the city. A record of all proceedings of the municipal court, of the disposition of all cases, and of all fines and other money collections shall be maintained by the Court staff. The style of all processes shall be in the name of the city. The municipal judges may administer oaths, make and enforce all proper orders, rules and judgments, and punish for contempt.

PROPOSITION 8

Article VI. Nominations and Elections,
Section 2. Primary election: Filing.

Any qualified person may have his/her name placed on the ballot for the primary election as a candidate for any city office by filing, not more than ninety (90) days and at least sixty (60) days prior to the primary election for a special election, and no fewer than fifteen (15) days for any regular municipal election, with the secretary of the county election board, a sworn statement of his candidacy; provided that the council by ordinance may require such statements to be filed with the city clerk instead.

PROPOSITION 9

Article VI. Nominations and Elections,
Section 6. Political activity of officers and employees.

Municipal employees may attend and express their views at city council meetings, or any other public meetings of municipal entities.

Any municipal employee may actively participate in partisan and nonpartisan political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees. Municipal corporations may establish employment requirements requiring municipal employees to refrain from filing as a candidate for public office while employed by said municipality.

It shall be unlawful for the governing body or officer of any municipal corporation in this state to directly or indirectly coerce or attempt to coerce any municipal employee to participate or not to participate in municipal political activities or public meetings.

Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor.

PROPOSITION 10

Article VII. Miscellaneous Provisions,
Section 4. Nepotism, compatibility of offices.

Neither the city manager, the council nor any other authority of the city government, may appoint or elect any person related to any councilmember, the city manager, or to him/herself or, in the case of plural authority, to one of its members, by blood or marriage within the third degree, to any office or position of profit in the city government.

However, the city manager may appoint him/herself, or the council may appoint or elect him/her, to other offices and positions in the city government, subject to any regulations which the council may make by ordinance; but he/she may not receive compensation for service in such other offices or positions.

Except as may be otherwise provided by this Charter or by ordinance, the same person may hold more than one (1) office or position of employment in the city government. An employee may not hold an elected office or campaign for one while employed by the City, nor shall an elected or appointed officer apply for employment while holding such office.

PROPOSITION 11

Article VII. Miscellaneous Provisions, Section 13. Residency, shall be repealed and placed into reserve.

PROPOSITION 12

Article VII. Miscellaneous Provisions,
Section 14. Publicity of records.

All records and accounts of every office, department or agency of the city government, shall be made accessible pursuant to the requirements set forth in Oklahoma Open Records Act, Title 51 Oklahoma Statutes Sections 24A.1 et seq.

PROPOSITION 13

Article VII. Miscellaneous Provisions,
Section 16. Proclamation of State of Emergency.

- (a) The City Council, after finding that a public disorder, disaster or riot exists which affects life, health, property or the public peace, may proclaim a state of emergency in the area affected. The proclamation of a state of emergency and other proclamations issued pursuant to this section shall be in writing and shall be signed by the Mayor and filed with the City Clerk.
- (b) The City of Midwest City shall give as much public notice as practical through the news media of the issuance of proclamations pursuant to this section.
- (c) During the state of emergency, the City Manager shall have the authority to act in accordance with the items listed in Section 2-126 Emergency Purchases, of Article VIII of Chapter 2 of the City of Midwest City's Code of Ordinances once the Council approves the state of emergency.
- (d) The state of emergency shall cease to exist upon the issuance of a proclamation of the City Council declaring its termination; provided that the City Council shall terminate the proclamation when order has been restored in the area affected.

PROPOSITION 14

Article IX. Recall,
Section 2. Election.

The mayor and councilmembers shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the results thereof declared in all respects as for other city elections. The question on the ballot is whether the subject of the petition is recalled. If the question passes, the council shall fill the remainder of the term for the vacancy by appointment.

PROPOSITION 15

Article X. Parkland, Section 1. Parkland, shall be repealed and placed into reserve.

The polling places for said election shall be opened at 7:00 o'clock a.m. and shall remain open until and be closed at 7:00 o'clock p.m. on that day.

All registered qualified electors residing within the boundaries of Midwest City shall be entitled to vote on the foregoing propositions at said election.

Pursuant to Title 26, Section 13-103(c), all precincts totally or partially contained within the limits of the City of Midwest City shall be open for election, except the City authorizes Precinct 244 to be closed. Precinct 244 is only partially contained within the limits and no registered voters reside within that portion.

DATED AND ISSUED this 23rd day of February, 2021.

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 February, 2021.

HEATHER POOLE, City Attorney



City Attorney

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

TO: Mayor and Council Members

FROM: Heather Poole, City Attorney

Date: February 23, 2021

Subject: Discussion and consideration of approving 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.

At the request of Mayor Dukes the code of conduct for council and representatives on other City Commissions, Boards and Committees has been strengthened and clarified. The Mayor researched other cities codes and discussed this with OMAG and OML staff. The proposed ordinance includes state statute requirements and sanction measures along with nationwide recommended approaches of required conduct by public officials.

Respectfully,

Heather Poole

Heather Poole, City Attorney



**City of Midwest City
Midwest City, Oklahoma
EST 1942**

**Code of Ethics and Conduct
for
Elected and Appointed Officials**

*"Always do right. This will gratify some people and
astonish the rest."
-- Mark Twain*

Adopted by Resolution No.
Amended by Resolution No.
Amended by Resolution No.

Policy Purpose

The Midwest City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Midwest City's City government.

A. **ETHICS**

The citizens and businesses of Midwest City are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Midwest City and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of Oklahoma and the City of Midwest City in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct towards other members, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. **Communication.** For adjudicative hearings pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.
8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

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

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts to the City Manager and City Attorney or any other City staff; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall

members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Midwest City, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of City of Midwest City government as outlined in the Midwest City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT GUIDELINES

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

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

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

(a) Honor the role of the chair in maintaining order

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

- (b) *Practice civility and decorum in discussions and debate*
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- (c) *Avoid personal comments that could offend other members*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- (d) *Demonstrate effective problem-solving approaches*
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

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

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

- (a) *Be welcoming to speakers and treat them with care and gentleness.*
While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- (b) *Be fair and equitable in allocating public hearing time to individual speakers.*
The chair will determine and announce limits on speakers at the start of the public hearing process.
- (c) *Maintain an open mind*
Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
- (d) *Ask for clarification, but avoid debate and argument with the public*
Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

3. Elected and Appointed Officials' Conduct with City Staff

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

- (a) *Treat all staff as professionals*
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.
- (b) *Do not disrupt City staff from their jobs*
Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.
- (c) *Never publicly criticize an individual employee*
Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager.
- (d) *Do not get involved in administrative functions*
Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- (e) *Do not solicit political support from staff*
Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
- (f) *No Attorney-Client Relationship*
Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.
- (g) *Council Member Must Resign*
If a sitting council member intends to apply for a full time or part time position with the City of Midwest City, he/she must resign from the council before applying for that position.

4. Council Conduct with Boards, Committees and Commissions

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

- (a) *If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*

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

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

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

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

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

- (d) *Be respectful of diverse opinions*

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

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

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. SANCTIONS

- (a) *Acknowledgement of Code of Ethics and Conduct*

Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.

(b) *Ethics Training for Local Officials*

Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees, and may be subject to sanctions.

(c) *Behavior and Conduct*

The Midwest City Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Midwest City Council, Boards, Committees and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

Councilmembers:

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

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

Board, Committee and Commission Members:

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

The City Council may impose sanctions on Board, Committee and Commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board, Committee or Commission member conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council.

The Mayor or Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.

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

D. IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary.

I affirm that I have read and understand the City of Midwest City Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 2, ADMINISTRATION, BY AMENDING ARTICLE II, CITY COUNCIL, SECTION 2-17, ELECTED OFFICIAL ACCOUNT ABILITY ACT AND ETHICS POLICY; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY THAT:

ORDINANCE

SECTION 1. The Midwest City Municipal Code, Chapter 2, Administration, Article II, City Council, Section 2-17, is hereby amended to read as follows:

Sec. 2-17. - Elected official accountability act and ethics policy.

For ease of reference the term “member” refers to any member of the City Council, or City Boards, Committees and Commissions established by City ordinance or Council policy.

A. ETHICS

The citizens and businesses of the City of Midwest City are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the City of Midwest City and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of Oklahoma and the City of Midwest City in the performance of their public duties.
3. Conduct of Members. The professional conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, towards other members of Council, Boards, Committees and Commissions, and the staff.
4. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. Conduct at Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine

and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. Communication. For adjudicative hearings pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.
8. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they or a member of his/her immediate family (defined as any person related within the third degree by blood or marriage to the council member) have
 - (a) a material financial interest or on:
 - 1) any business entity in which the councilmember has a direct or indirect interest;
 - 2) any real property in which the councilmember has a direct or indirect interest; or
 - 3) any business entity in which the councilmember is a director, officer, partner, trustee or employee, or holds any position of management.,
 - (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or
 - (c) a strong personal bias.

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

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

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

~~(a) *Conflict of interest.*~~ No member of the council shall receive any payments or gifts, other than those provided in the Charter or in the Code of Ordinances, for action or inaction in his/her elected capacity, ~~nor shall any member of the council make, participate in making, or~~

~~in any way attempt to use his/her official position to influence the making of any decision that s/he knows or should know will have a reasonably foreseeable material financial effect, distinguishable from its affect on the public generally, on the member of the council or a member of his/her immediate family (defined as any person related within the third degree by blood or marriage to the councilmember) or on:~~

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

10. ~~(b) *Executive session.*~~ Confidential Information. Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. No member of the council shall disclose confidential discussions occurring in executive session with anyone other than other councilmembers or invited staff/guests. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests. ~~nor shall any councilmember use any confidential information obtained in executive session or other privileged source for foreseeable material gain, distinguishable from its affect on the public generally,~~ for the member of the council or a member of his/her immediate family or on:

- (1) Any business entity in which the council member has a direct or indirect interest;
- (2) Any real property in which the council member has a direct or indirect interest; or
- (3) Any business entity in which the councilmember is a director, officer, partner, trustee or employee, or holds any position of management.

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

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

13. Advocacy. Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Midwest City, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It

is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of City of Midwest City government as outlined in the Midwest City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.
17. ~~(e)~~ **Elections.** No member of the council or candidate for council shall receive more than an amount established by state law in monetary or in-kind donations for each council election for which the member of council or candidate seeks office.

B. CONDUCT GUIDELINES

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

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

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

(a) Honor the role of the chair in maintaining order

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

(b) Practice civility and decorum in discussions and debate

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

(c) Avoid personal comments that could offend other members

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

(d) Demonstrate effective problem-solving approaches

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

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

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

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

(b) Be fair and equitable in allocating public hearing time to individual speakers. The chair will determine and announce limits on speakers at the start of the public hearing process.

(c) Practice active listening

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

(d) Maintain an open mind

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

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

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

3. Elected and Appointed Officials' Conduct with City Staff

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

(a) Treat all staff as professionals

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

(b) Do not disrupt City staff from their jobs

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

(c) Never publicly criticize an individual employee

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

(d) Do not get involved in administrative functions

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

(e) Do not solicit political support from staff

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

(f) No Attorney-Client Relationship

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

(g) Council Member Must Resign

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

4. Council Conduct with Boards, Committees and Commissions

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

- (a) If attending a Board, Committee or Commission meeting, be careful to only express personal opinions

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

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

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

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

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

- (d) Be respectful of diverse opinions

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

(e) Keep political support away from public forums

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. ~~(d)~~ VIOLATION.

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

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

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

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

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

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

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

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 _____, 2021.

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 _____, 2021.

HEATHER POOLE, City Attorney

ORDINANCE NO. _____

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.

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

ORDINANCE

SECTION 1. The Midwest City Municipal Code, Chapter 2, Administration, Article II, City Council, Section 2-17, is hereby amended to read as follows:

Sec. 2-17. – Elected Official Accountability Act and Ethics Policy.

For ease of reference the term “member” refers to any member of the City Council, or City Boards, Committees and Commissions established by City ordinance.

A. ETHICS

The citizens and businesses of the City of Midwest City are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the City of Midwest City and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of Oklahoma and the City of Midwest City in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct towards other members and the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adju-

1 dicative decisions (those decisions where the member is called upon to determine and ap-
2 ply facts peculiar to an individual case), members shall maintain an open mind until the
3 conclusion of the hearing on the matter and shall base their decisions on the facts pre-
4 sented at the hearing and the law.

- 5 7. **Communication.** For adjudicative matters pending before the body, members shall re-
6 frain from receiving information outside of an open public meeting or the agenda materi-
7 als, except on advice of the City Attorney. Members shall publicly disclose substantive
8 information that is relevant to a matter under consideration by the body which they may
9 have received from sources outside of the public decision-making process.

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

16 (a) a material financial interest or on:

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

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

25 (c) a strong personal bias.

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

35 In accordance with the law, members shall disclose investments, interests in real prop-
erty, sources of income, and gifts to the City Attorney and City Manager; and if they have
a conflict of interest regarding a particular decision, shall not, once the conflict is ascer-
tained, participate in the decision and shall not discuss or comment on the matter in any
way to any person including other members unless otherwise permitted by law, failure to
comply may lead to conduct being reported to the District Attorney.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportu-
nities for personal gain, by virtue of their public office that is not available to the public
in general. They shall refrain from accepting any gifts, favors or promises of future bene-
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pearance of being compromised.

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in the Charter or in the Code of Ordinances, for action or inaction in his/her elected capac-
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member of the council shall disclose confidential discussions occurring in executive session with anyone other than other councilmembers or invited staff/guests. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests, nor shall any member of the council make, participate in making, or in any way attempt to use his/her official position to influence the making of any decision that s/he knows or should know will have a reasonably foreseeable material financial effect, on the member of the council or a member of his/her immediate family (defined as any person related within the third degree by blood or marriage to the councilmember) or on:

- 1) Any business entity in which the council member has a direct or indirect interest;
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15. Independence of Boards, Committees and Commissions. Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

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

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

B. CONDUCT GUIDELINES

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

1 **1. Elected and Appointed Officials’ Conduct with Each Other in Public Meetings**

2 Elected and appointed officials are individuals with a wide variety of backgrounds, person-
3 alities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public
4 office in order to preserve and protect the present and the future of the community. In all
5 cases, this common goal should be acknowledged even though individuals may not agree
6 on every issue.

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

8 It is the responsibility of the chair to keep the comments of members on track during
9 public meetings. Members should honor efforts by the chair to focus discussion on
10 current agenda items. If there is disagreement about the agenda or the chair’s ac-
11 tions, those objections should be voiced politely and with reason, following proce-
12 dures outlined in parliamentary procedure.

13 *(b) Practice civility and decorum in discussions and debate*

14 Difficult questions, tough challenges to a particular point of view, and criticism of
15 ideas and information are legitimate elements of debate by a free democracy in
16 action. Free debate does not require nor justify, however, public officials to make
17 belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging
18 comments.

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

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

24 *(d) Demonstrate effective problem-solving approaches*

25 Members have a public stage and have the responsibility to show how individuals
26 with disparate points of view can find common ground and seek a compromise that
27 benefits the community as a whole.

28 **2. Elected and Appointed Officials’ Conduct with the Public in Public Meetings**

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

33 *(a) Be welcoming to speakers and treat them with care and gentleness.*

34 While questions of clarification may be asked, the official’s primary role during
35 public testimony is to listen.

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

37 The chair will determine and announce limits on speakers at the start of the public
38 hearing process.

39 *(c) Practice active listening*

40 It is disconcerting to speakers to have members not look at them when they are
41 speaking.

42 *(d) Maintain an open mind*

43 Members of the public deserve an opportunity to influence the thinking of elected
44 and appointed officials.

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

Only the chair – not individual members – can interrupt a speaker during a presen-
tation. However, a member can ask the chair for a point of order if the speaker is
off the topic or exhibiting behavior or language the member finds disturbing.

3. Elected and Appointed Officials’ Conduct with City Staff

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

(a) Treat all staff as professionals

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

(b) Do not disrupt City staff from their jobs

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

(c) Never publicly criticize an individual employee

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

(d) Do not get involved in administrative functions

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

(e) Do not solicit political support from staff

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

(f) No Attorney-Client Relationship

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

(g) Council Member Must Resign

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

4. Council Conduct with Boards, Committees and Commissions

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

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

Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual,

business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

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

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

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

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

(d) Be respectful of diverse opinions

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

(e) Keep political support away from public forums

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. VIOLATION

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

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

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

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

5 When deemed warranted, the Mayor or majority of Council may call for an investigation of
6 Board, Committee or Commission member conduct. Also, should the City Manager or City
7 Attorney believe an investigation is warranted, they shall confer with the Mayor or Council.
The Mayor or Council shall ask the City Manager or the City Attorney to investigate the alle-
gation and report the findings.

8 These sanctions are alternatives to any other remedy that might otherwise be available to rem-
9 edy conduct that violates this code or state or federal law. In order to protect and preserve
10 good government, any individual including the City Manager and the City Attorney after com-
11 plying with Rule 1.13 of the State Bar Rules of Professional Conduct, who knows or reason-
12 ably believes a member acts or intends or refuses to act in a manner that is or may be a viola-
tion of law reasonably imputable to the organization, or in a manner which is likely to result
in substantial injury to the organization, may report the violation to the appropriate govern-
mental authorities.

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

16 **SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby
17 repealed.

18 **SECTION 3. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is
19 for any reason held to be invalid, such decision shall not affect the validity of the remaining por-
tions of the ordinance.

20 PASSED AND APPROVED by the mayor and city council of the City of Midwest City, Okla-
21 homa, this _____ day of _____, 2021.

22 THE CITY OF MIDWEST CITY, OKLAHOMA

23 _____
24 MATTHEW D. DUKES II, Mayor

25 ATTEST:

26 _____
27 SARA HANCOCK, City Clerk

28
29 APPROVED as to form and legality this _____ day of _____, 2021.

30 _____
31 HEATHER POOLE, City Attorney



City Attorney

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

TO: Mayor and Council Members

FROM: Heather Poole, City Attorney

Date: February 23, 2021

Subject: Discussion and consideration of approving an ordinance amending the Midwest City Municipal Code, Chapter 11, Emergency Management, by adopting Section Powers of City Manager During Declared Emergency; and providing for severability. 3,

The requested Ordinance addresses managerial needs that became clear during the recent pandemic for the need for the City to implement necessary actions quickly and expeditiously. The Ordinance only allows specified conduct by the City Manager after an Emergency is declared by the City Council or outside governmental entity that would require the listed actions being necessary for the health, welfare, or other needs of City residents.

Respectfully,

Heather Poole

Heather Poole, City Attorney

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 11, EMERGENCY MANAGEMENT, BY ADOPTING, SECTION 11-3, POWERS OF CITY MANAGER DURING DECLARED EMERGENCY; AND PROVIDING FOR SEVERABILITY.

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

ORDINANCE

SECTION 1. The Midwest City Municipal Code, Chapter 11, Emergency Management, Section 11-3, Powers of City Manager During Declared Emergency, is hereby adopted to read as follows:

Section 11-3. – Powers of City Manager During Declared Emergency

During time periods which have been declared an emergency by the City Council and/or the Governor of the State of Oklahoma or by the President of the United States, the City Manager shall be able, for the benefit of the public welfare, safety or health, to prohibit the following:

1. any person being on the public streets, or in the public parks or at any other public place during the hours declared by the City Manager to be a period of curfew;
2. a designated number of persons from assembling or gathering on the public streets, parks or other areas either public or private;
3. the manufacture, transfer, use, possession or transportation of a Molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;
4. the transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;
5. the possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;
6. the sale, purchase or dispensing of alcoholic beverages;
7. the sale, purchase or dispensing of other commodities or goods, as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;
8. the use of certain streets, highways or public ways by the public; and
9. such other activities as she/he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

SECTION 2. 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 portions of the ordinance.

PASSED AND APPROVED by the mayor and city council of the City of Midwest City, Oklahoma, this _____ day of _____, 2021.

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 _____, 2021.

HEATHER POOLE, City Attorney



Public Works Administration

8730 S.E. 15th Street,
Midwest City, Oklahoma 73110

Public Works Director

pstreets@midwestcityok.org

(405) 739-1061

Public Works City Engineer

pmenefee@midwestcityok.org

(405) 739-1062

www.midwestcityok.org

Memorandum

To: Honorable Mayor and Council

From: R. Paul Streets, Public Works Director

Date: February 23, 2021

Subject: Discussion and consideration of 1) acceptance of an Association of Central Oklahoma Governments Public Fleet Conversion grant in the amount of \$59,531.00; 2) approving and entering into a Public Fleet Conversion Grant Contract with ACOG to establish the terms and conditions of the grant for the provision of reimbursement of certain costs incurred for the purchase of (1) new, Compressed Natural Gas (CNG) truck and 3) authorization of the Mayor and/or City Manager to enter into the necessary contracts/agreements to implement the grant.

The City of Midwest City applied for a Public Fleet Conversion Grant from the Association of Central Oklahoma Governments for the purchase of one (1) new, compressed natural gas (CNG) trash truck. The intention of these grant funds is to seed the advancement of alternative fuel technology, as delineated by the Federal Highway Administration's Congestion Mitigation Air Quality in support of the Clean Air Act.

The funds will be used to defray expenses related to the purchase of:

- CNG Conversion

As fiscal agent, the city will establish and maintain an account for the contract amount, will process invoices for payment, and will invoice the Association of Central Oklahoma Governments for reimbursement, along with the other oversight activities. The total estimated cost of the project is \$59,531.00.

Action is at the discretion of the Mayor and Council.

Respectfully,

R. Paul Streets
Public Works Director

Attached: Public Fleet Conversion Grant Contract

Grant #: R1-2021 City of Midwest City

PUBLIC FLEET CONVERSION GRANT CONTRACT
BETWEEN THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS
AND
The City of Midwest City

This Grant Contract, by and between the Association of Central Oklahoma Governments, hereinafter referred to as "ACOG" and the City of Midwest City, Okla., hereinafter referred to as the "Grantee," is for the provision of reimbursement of certain costs incurred for the purchase of one (1) Compressed Natural Gas trash truck as further defined in the "SCOPE OF SERVICES."

Amount of Grant not to exceed: Fifty-nine thousand five hundred thirty-one dollars. (\$59,531.00)

Grantee Federal Employer Identification: 73-6027530

A. SCOPE OF SERVICES

A.1. The Grantee shall provide all services and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Grant Contract.

A.2. The intention of ACOG in awarding these grant funds is to seed the advancement of alternative fuel vehicles, certain hybrid vehicles, and alternative fuel infrastructure as delineated by the Federal Highway Administration's Congestion Mitigation Air Quality funding guidelines within the Central Oklahoma region to reduce vehicle emissions and to support the Clean Air Act and its amendments. *The State of Oklahoma considers ACOG a subrecipient of the federal funds it receives as reimbursement under this agreement. The Catalog of Federal Domestic Assistance (CFDA) number for this project is 20.205, title Highway Planning and Construction.*

A.2.a. Grantee agrees that all equipment, parts, vehicles purchased with ACOG Public Fleet Conversion Grants funds, hereinafter referred to as "ACOG CLEAN AIR Public Fleet Grants," will be new and unused.

A.2.b. Funds are intended to defray costs related to the purchase of *one (1) Compressed Natural Gas trash truck*. Grantee will remove from the fleet, one vehicle further described below and will provide ACOG a bill of sale, receipt of scrappage or other like documents as proof of removal of these vehicles. Vehicles identified for removal from fleet include:

One (1) Class 8 Diesel-Vin# 3BPZL00X1AF720003

A.2.c. Except for circumstances described in Section D.8., Grantee agrees that any and all liability of any kind stemming from the purchase and use of these vehicles, or equipment, remains with and will be the sole responsibility of the Grantee.

A.2.d. Grantee shall be solely responsible for all ongoing maintenance of the vehicle(s) or equipment.

A.2.e. Grantee will prominently and visibly mark all ACOG CLEAN AIR Public Fleet Grants-funded vehicles, fueling or charging station(s) in such a way that promotes alternative fuels or clean fuel vehicle technology, and clean air. Acceptable station signage shall include station banners, flags,

marquees, pump toppers and pump wraps or other prominent pump signage. Acceptable vehicle signage shall include vehicle wraps or partial wraps, prominent slogans affixed to the vehicles, and the like. This signage shall remain affixed to fuel dispensers, and vehicles until the grant-funded equipment and/or vehicles are retired from Grantee's fleet service.

A.2.f. Grantee will visibly and distinctly label all ACOG CLEAN AIR Public Fleet Grants-funded vehicles with the following: "**Funded in partnership with ACOG**" or "Funded in Partnership with ACOG logo."

A.2.g. Grantee will visibly and distinctly label all ACOG CLEAN AIR Public Fleet Grants-funded *infrastructure* project with the following: **CLEAN AIR Fueling Project funded in partnership with the Association of Central Oklahoma Governments** or **CLEAN AIR Fueling Facility funded in partnership with the Association of Central Oklahoma Governments**.

A.3. **Progress Reports:** Grantee shall provide to ACOG quarterly progress reports once the contract has been executed and a notice to proceed is issued. The quarterly reports should consist of a short summary of the status of the project and any issues that may have come up.

A.3.a. **Project Completion:** Once the project is operational/complete the grantee will provide ACOG notification that the project is operational/complete to ensure the tracking of annual reporting. Any missing quarterly reports or the notification that the project is operational/complete will delay the process of reimbursement.

A.4. **Annual Reports:** Grantee shall provide to ACOG a minimum of four (4) annual reports covering 12 full months of project operation. These reports are due each year after the project is complete and additional reporting should occur each year after on this date. The maximum number of required annual reports period shall not exceed five (5) years. Missing or late annual reports will delay the process of reimbursement.

A.4.a. **Annual Reports for vehicle projects** shall include annual odometer readings, annual fuel consumption records, any maintenance or repair records and costs other than normal, routine vehicle maintenance associated with each vehicle purchased with ACOG CLEAN AIR Public Fleet Grants funds.

A.4. b. **Annual reports for fueling/charging infrastructure projects** shall include the amount of fuel(s) dispensed at the station(s), the number of grantee owned vehicles refueling at the station(s), maintenance and repair records and written documentation of all other cost associated with the station equipment and installation purchase with ACOG CLEAN AIR Public Fleet Grants funds.

B. GRANT CONTRACT TERMS

B.1. ACOG shall have no obligation for costs incurred by the Grantee outside the period commencing the date of the notice to proceed.

B.2. Reporting requirements as described in Sections A.4.,A.4.a A.4.b. of this Grant Contract shall be effective for the period commencing from the date of the notification to proceed from ACOG and ending no later than five years after project completion, herein after to as Part II of Contract terms.

C. PAYMENT TERMS AND CONDITIONS

C.1. **Limitation of Liability:** In no event shall the maximum liability of ACOG under this Grant Contract exceed; Fifty-nine thousand five hundred and thirty-one dollars (\$59,531).

C.2. **Payment Methodology:** The Grantee shall be reimbursed for Allowable Costs related to the purchase of one (1) Compressed Natural Gas trash collector/grapple truck as described in Section A.2.b., not to exceed the maximum liability established in Section C.1.

C.2.a. Allowable Costs are further defined as excluding any expenses such as personnel cost, land acquisition costs, administrative and legal expenses, appraisals, architectural and engineering fees, project inspection fees, site work, demolition and removal.

C.2.b. The grantee shall submit invoices accompanied by a bill of sale, retail sales order or other documentation as further described in Sections C.3.a through C.3.d, **within 30 days of project completion.**

C.2.c. The Association of Central Oklahoma Governments (ACOG) allows awarded FY-21 Congestion Mitigation Air Quality (CMAQ) funding to be used as cost share for projects awarded through Volkswagen (VW) Settlement funding. VW Settlement funding is not considered federal funding and is allowable under this grant program.

C.3. **Invoice Requirements:** Grantee shall invoice ACOG with all necessary and supporting supporting documentation, to:

ACOG

Attention: Eric Pollard, Air Quality and Clean Cities Coordinator

4205 North Lincoln Blvd.

Oklahoma City, Oklahoma 73105

Telephone: 405-778-6175

Email: EPollard@acogok.org

AHankins@acogok.org

C.3.a. Each invoice shall clearly and accurately detail the following required information:

- (1) Invoice/Reference Number (assigned by the Grantee);
- (2) Invoice Date;
- (3) Grant Contract Number (assigned by ACOG to this Grant Contract);
- (4) Grantee Name;
- (5) Grantee Federal Employer Identification Number (as referenced in this Grant Contract) **& CFDA 20.205**
- (6) Grantee Remittance Address;
- (7) Grantee Contact (name, phone, and/or email for the individual to contact with invoice questions);
- (8) Complete Itemization of Reimbursement Requested which shall include Documentation of Paid Expenses and shall include each of the following:

An Itemized Bill of Sale or sales order for each vehicle purchased, including VIN number.

An Itemized Bill of Sale or sales order for each vehicle conversion, upfit, and/or engine repower to include separate line itemizations for the following:

1. Labor costs
 2. Cost of each alternative fuel system equipment package (exclusive of fuel tanks)
 3. Itemized Bill of Sale or sales order for all fueling infrastructure storage and dispensing equipment
 4. Total Reimbursement Amount Requested
- C.3.b. Each invoice shall be accompanied by a copy of the EPA emissions certification for each conversion, upfit, and/or engine repower unless the engine is EPA certified.
- C.3.c. Each invoice shall be accompanied by proof of removal from fleet and/or scrappage of vehicle(s), as applicable. Documentation for the vehicle listed in the contract for removal will include the VIN number of any/all vehicles scrapped.
- C.3.d. Each invoice shall be accompanied by a digital photo file(s) of the project displaying required labeling and signage promoting alternative fuels or clean fuel vehicle technology, and clean air.
- C.4. The Grantee understands and agrees that an invoice to ACOG under this Grant Contract shall include only reimbursement requests for actual expenditures as described in Section A.2.b. and Sections C.2., C.2.a., C.2.b. of this Grant Contract subject to the liability limits of the Grant Award as described in Section C.1.
- C.4.a. All invoices for reimbursement must be received by ACOG no later than August 1, 2022 to include only expenses incurred during the period delineated as Part I of Contract Terms.
- C.4.b. The Grantee's failure to provide an invoice to ACOG by August 1, 2022 as required, shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and any and all financial and legal liabilities related to the awarded project shall be upon the Grantee and not the responsibility or liability of ACOG.
- C.5. **Payment of Invoice:** ACOG shall, within 90 days of receipt of invoice for eligible expenses relating to the purchase of vehicles, equipment, materials, labor and installation, review and process invoice as well as request reimbursement from ODOT for grantee's expenditures. Once ODOT has provided reimbursement for grantee's expenditures ACOG will issue payment to grantee.
- C.6. **Unallowable Costs:** The Grantee's invoice shall be subject to reduction for amounts included in any invoice which are determined by ACOG, on the basis of the terms of this Grant Contract and stated intent of the Grant Award, not to constitute allowable costs.

D. STANDARD TERMS AND CONDITIONS

- D.1. Required Approvals: ACOG is not bound by this Grant Contract until it is approved by the appropriate government entity legal signatory in accordance with applicable laws and regulations.
- D.2. Notice to Proceed: Reimbursable costs cannot be incurred until Grant Contract is executed and a letter of Notice to Proceed is issued to Grantee.

- D.3. Modification and Amendment: This Grant Contract may be modified only by a written amendment executed by all parties hereto and approved by ACOG.
- D.4. Termination for Cause: If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract, ACOG shall have the right to terminate the Grant Contract and withhold any and all award funds for reimbursement regardless of any financial liability for equipment or services incurred by the Grantee. Notwithstanding the above, the Grantee shall not be relieved of liability to ACOG for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- D.5. Records: The Grantee shall maintain documentation for all purchases and installations under this Contract. The books, records, and documents of the Grantee, insofar as they relate to money received under this Contract, shall be maintained for a period of three (3) full years **from the date of the final report** and shall be subject to audit at any reasonable time and upon reasonable notice by ACOG, the Oklahoma Department of Transportation and/or Federal Highway Administration, the Oklahoma State Auditor and Inspector, or their duly appointed representatives.
- D.6. Progress Reports: The Grantee shall submit brief, quarterly progress reports, as described in Section A.3., to ACOG in addition to annual reports as described in Sections A.4 through A.4.b.
- D.7. ACOG Liability: ACOG shall have no liability except as specifically provided in this Grant Contract.
- D.8. Force Majeure: The obligations of the parties to this Grant Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, epidemics or any other similar cause.
- D.9. State and Federal Compliance: The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.
- D.10. Governing Law: This Grant Contract shall be governed by and construed in accordance with the laws of the State of Oklahoma.
- D.11. Completeness: This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and discussions between the parties relating hereto, whether written or oral.
- D.12. Severability: If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

E. SPECIAL TERMS AND CONDITIONS

- E.1. Conflicting Terms and Conditions: Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts: All instructions, notices, consents, demands, or other

communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

ACOG:

Eric Pollard, Air Quality and Clean Cities Coordinator
4205 North Lincoln Blvd.
Oklahoma City, Oklahoma 73105
405-234-2264

Grantee:

Craig Davis
Transportation Manager
Fleet Services Department
The City of Midwest City
8730 SE 15th
Midwest City, OK 73110
(405) 739-1035

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Hold Harmless: To the extent that Oklahoma law permits, the Grantee agrees to hold harmless ACOG as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Grantee, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Grantee further agrees it shall be liable for the reasonable cost of attorneys for ACOG in the event such service is necessitated to enforce the terms of this Grant Contract or otherwise enforce the obligations of the Grantee to ACOG.

Likewise, ACOG agrees to hold harmless Grantee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of ACOG, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. ACOG further agrees it shall be liable for the reasonable cost of attorneys for Grantee in the event such service is necessitated to enforce the terms of this Grant Contract or otherwise enforce the obligations of ACOG to Grantee.

In the event of any such suit or claim, the Grantee shall give ACOG immediate notice thereof and shall provide all assistance required by ACOG in ACOG's defense. ACOG shall give the Grantee written notice of any such claim or suit, and the Grantee shall have full right and obligation to conduct the Grantee's own defense thereof. Nothing contained herein shall be deemed to accord to the Grantee, through its attorney(s), the right to represent ACOG in any legal matter.

IN WITNESS WHEREOF:

Grantee Legal Entity Name

Signature of Authorized Official

Date

Printed Name and Title of Authorized Official

Mark W. Sweeney, AICP, Executive Director
Association of Central Oklahoma Governments

Date