

**ORDINANCE NO. 2664**

**AN ORDINANCE AMENDING CHAPTER 106, UTILITIES, OF THE MCALESTER CITY CODE, AMENDING ARTICLE VI, REGULATIONS OF UTILITY LINES; AMENDING CHAPTER 48, FEES, CHARGES AND SERVICE RATES; REPEALING ALL CONFLICTING ORDINANCES, AND PROVIDING FOR SEVERABILITY.**

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BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCALESTER, OKLAHOMA, that

SECTION 1. That Chapter 106, Utilities, of the McAlester City Code is hereby amended to read as follows:

**ARTICLE VI. REGULATION OF UTILITY LINES AND POLES**

**Sec. 106-556. Definitions.**

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

*Depth* means the top of the utility line below existing ground grade.

*Right-of-way* means the area within the jurisdiction of the city that is on, below, or above a public roadway, highway, street, sidewalk, alley or similar property or a public easement that authorizes the placement sought by the provider, but does not include a state highway or other areas that are not within the legal jurisdiction, ownership or control of the city.

*Utilities* means any person, firm, or corporation which furnishes or transports by means of an underground or above ground conduit any of the materials or services as defined under the term "utility lines."

*Utility lines* means any underground or above ground pipes, cables, lines, conduits, or wires constructed for the transmission of gases, liquids, electrical energy or communications.

*Utility pole* means a pole or similar structure made of wood, concrete, metal or other material that is used in whole or in part for the purpose of carrying electric energy or communications, or for lighting, traffic control, signage, or a similar function.

**Sec. 106-557. Location and minimum burial depth.**

(a) All gas service lines shall be installed at a minimum depth of 18 inches. All main gas lines shall be installed at a minimum depth of 30 inches. All lines shall be installed in accordance with the current National Electrical Safety Code (NESC) and/or the current National Fuel Gas Code (NFPA 54 or ANSI Z223.1), wherever applicable.

(b) All water service lines shall be installed at a minimum depth of 18 20 inches. All main water lines shall be installed at a minimum depth of 30 inches.

(c) All underground telephone/communication wires shall be installed at a minimum depth of 24 inches. All sanitary sewer main lines shall be installed a minimum of 36 inches deep in any city right-of-way. All sanitary service lines must be a minimum of 18 inches on any city right-of-way.

(d) All underground power lines shall be installed at a minimum depth of 42 inches. All utility poles shall be installed at the far outside edge in any city right-of-way line as feasible to enhance safety and reduce conflicts with maintenance operations. As far as practical poles should be behind the face of outer curbs and behind the sidewalks.

(e) All underground cable television lines shall be installed at a minimum depth of 18 inches.

(f) All gas lines shall be installed at a minimum of 36 inches from the curb and 17 feet from the centerline of any county road, highway, street, etc., and shall be installed at a minimum of 18 inches from any other public utility line, pipe, etc.

(g) All telephone/communication lines shall be installed a minimum of 18 inches from the curb or 15 1/2 feet from the centerline of a county road, highway, street, etc., and shall be installed a minimum of 12 inches from any other public utility line, pipe, etc.

(h) All electrical lines shall be installed a minimum of 96 inches from the curb or 22 feet from the centerline of any county road, highway, street, etc., and shall be installed a minimum of 24 inches from any other public utility line, pipe, etc.

(i) All cable television lines shall be installed a minimum of six inches from the curb or 14 1/2 feet from the centerline of any county road, highway, street, etc., and shall be installed a minimum of 12 inches from any other public utility line, pipe, etc.

(j) All sanitary sewer main lines shall be installed a minimum of three feet deep in any city right-of-way. All sanitary service lines must be a minimum of 18 inches on any city right-of-way.

**Sec. 106-558. Variances.**

The city manager or designee is authorized to approve a variance from the requirements of the location standard incorporated in this article, if, in its opinion, such variance is absolutely necessary under the conditions then and there existing; and, such variance will not create a public hazard or otherwise be detrimental to the best interests of the city and its citizens. The city manager and designee shall keep a record of any and all variances granted under this section. This record shall include the name of the utility to which such variance is granted, the description and location of the variance, and the reasons for granting such variance.

**Sec. 106-559. Restoration of property.**

Any utility shall condemn or utilize only that portion of a public right-of-way necessary for the purpose intended. They shall leave undisturbed the area surrounding the condemned or utilized right-of-way and shall replace or repair, in kind, any structures, shrubbery, driveways, embankments, ground cover, etc., which are altered or disturbed while installing pipes, wires, ditches, or otherwise using the public right-of-way and shall regrade the disturbed area to its original contours.

**Sec. 106-560. Costs and expenses.**

Any costs or expenses incurred by the city in repairing or replacing any structures, etc., as described in this article, which are not left in their original condition by the public utilities may be chargeable to the public utility, including reason-able attorney's fees incurred in the collection of such costs and expenses.

**Sec. 106-561. Permit required.**

A provider shall not install new utility lines or poles within the public right of way without first obtaining a right of way permit from the city. Any regular or routine maintenance or replacement or extension of an existing utility line or pole does not require a right of way permit. Prior to installation of a new transmission line or pole the provider shall complete and submit to the city a right-of-way permit application in the form provided by the city. Payment of a permit application fee and all other fees required as set forth in Chapter 48 shall be paid, with exception to providers that have a franchise agreement authorizing those utilities to occupy the city’s rights-of-way.

**Sec. 106-562. Authority to suspend during emergency.**

In the event of an emergency, permit requirements and the associated fees may be suspended or waived when normal application of the requirements would be inconsistent with public health, safety, and welfare. Emergency means the actual or threatened existence of conditions of disaster or extreme peril to the safety of persons and property.

SECTION 2. That Chapter 48, Fees, Charges and Service Rates, of the McAlester City Code is hereby amended to create Article VIII, Mobile Food Vendors to read as follows:

<i>Code Section</i>	<i>Description</i>	<i>Amount</i>
<b>Chapter 106. Utilities</b>		
<i>Article VI. Regulation of Utility Lines and Poles</i>		
106-561	Permit required	\$ 50.00

SECTION 3. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict or inconsistency and all other ordinances not in conflict herewith shall remain in full force and effect.

SECTION 4. The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF McALESTER, OKLAHOMA on THIS 27TH DAY OF AUGUST, 2019.

CITY OF McALESTER, OKLAHOMA  
A Municipal Corporation

ATTEST:

By: \_\_\_\_\_  
John Browne, Mayor

\_\_\_\_\_  
Cora Middleton, City Clerk

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

By: \_\_\_\_\_  
William J, Ervin, City Attorney