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CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

USE AND CONSTRUCTION OF THE CODE

SECTION 1-101 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as "The City Code of Cherokee, Oklahoma," and may be so cited. The Code may also be cited as the City Code or in the provisions which follow, as the "Code."

State Law Reference: Adoption and revision of codes and codes of ordinances, 11 O.S. §§ 14-108 & 14-109.

SECTION 1-102 RULES OF CODE CONSTRUCTION; DEFINITIONS.

A. In the construction of this code and all ordinances, the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the city Commission or the context clearly requires otherwise:

1. "Administrative regulations" means written orders which are issued by approval of the City Manager of the City;
2. "Administrator" see "manager"
3. "And/or" means "or," and "or" may be read "and" if the sense requires it;
4. "Bond" means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event;
5. "Building" means any structure intended to have walls and a roof;
6. "Building official" means the person appointed by the City Manager and designated as the city's building official;

7. "Business" means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward;
8. "City" means the City of Cherokee, in the County of Alfalfa and State of Oklahoma;
9. "City limits" means within the city and includes not only the corporate limits of the city but also any property which it owns, or which is under its jurisdiction;
10. "City Manager" or "manager" means the City Manager of the city;
11. "Clerk" means the City Clerk;
12. "Commission" or "City Commission" or "Commissioners" shall mean the governing body of the city, the City Council of the City;
13. "County" means Alfalfa County, Oklahoma;
14. "Definitions" given within a chapter or article apply only to words or phrases used in such chapter or article unless otherwise provided;
15. "Designee," following an official of the city, means the authorized agent, employee or representative of such official;
16. "Gender" Words importing the masculine gender include the feminine and neuter as well as masculine;
17. "Health officer" means administrator of the cooperative department of the county and the city;
18. "Keeper" means one in possession of or who has the care, custody or superintendence of a thing, place or business whether or not the owner or proprietor, and includes any person, firm, association, corporation, club and co-partnership whether acting by themselves or by a servant, agent or employee;
19. "Law" means applicable federal law and court decisions, court decisions and provisions of the constitution and statutes of the state and ordinances of the city, and,

- when appropriate, any and all rules and regulations promulgated thereunder;
20. "Manager" means the City Manager of the city;
 21. "May" is permissive and discretionary;
 22. "Mayor" means the mayor of the city;
 23. "Month" means a calendar month;
 24. "Number" Words used in the singular include the plural and the plural includes the singular;
 25. "Oath" means any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath;
 26. "Occupant" means tenant or person in actual possession;
 27. "Operate" means carry on, keep, conduct, maintain, manage, direct or superintend;
 28. "Ordinances" mean the ordinances of the city and all amendments and supplements thereto;
 29. "Owner" means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, "owner" means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land;
 30. "Person" means any individual, natural person, joint stock company, partnership, voluntary association, club, firm, company, corporation, business trust, organization, or any other bodies corporate or politic or group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law;

31. "Personal property" means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property;
32. "Preceding" and "following" means next before and next after, respectively;
33. "Proprietor" means an owner of the property or premises, including any person, firm, association, corporation, club, partnership or other group acting as a unit, whether acting by themselves or by a servant, agent or employee;
33. "Public Place" means and includes any public street, road or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building, or any other place commonly open to the public;
34. "Real property" means land together with all things attached to the land so as to become a part thereof;
35. "Shall". The word "shall" is mandatory;
36. "Sidewalk" means that portion of a street between the carbine and the adjacent property along the margin of a street or other highway, designed, constructed and intended for the use of pedestrians to the exclusion of vehicles;
37. "Signature and subscription" means the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him;
38. "State" means the State of Oklahoma;
39. "Statutes" means the Oklahoma Statutes as they are now or as they may be amended to be;
40. "Street" means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and

the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this city, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

41. "Tenant" means any person occupying the premises, building or land of another in subordination to such other person's title and with his express or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others;
42. "Tense" Words used in the past or present tense include the future, past, and present where applicable unless the context clearly indicates otherwise;
43. "Time" means the hour of the day according to the official time of the day;
44. "Time of performance" means the time within which an act is to be done as provided in any section or any order issued pursuant to any section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded;
45. "Treasurer" means the city treasurer;
46. "Watercourse" means any drain, ditch and stream, flowing in a definite direction or course in a bed with banks;
47. "Week" means seven (7) days;
48. "Writing" and "written" means any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means; and
49. "Year" means a calendar year.

B. Words and phrases are construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law are construed and understood according to such meaning.

SECTION 1-103 CATCHFLIES OF SECTIONS; CITATIONS.

The CATCHFLIES of sections in this code are printed in CAPITAL LETTERS and citations included at the end of sections are intended to indicate the contents of the section and original historical source respectively, and shall not be deemed or taken to be titles and official sources of such sections; nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the CATCHFLIES, or citations, are amended or re-enacted.

SECTION 1-104 EFFECT OF REPEAL OF ORDINANCES.

A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

B. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

SECTION 1-105 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Commission that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code or of any ordinance in the code is declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code of ordinances.

SECTION 1-106 AMENDMENT TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

A. One Subject. Every ordinance adopted by the Commission shall embrace but one subject which shall be clearly expressed in its title. No repealed ordinance shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended or

conferred shall be re-enacted, and published at length; provided that if any subject be embraced in any ordinance contrary to the provisions of this section, such ordinance shall be void only as to such part of the ordinance as may not be expressed in the title thereof. All ordinances passed subsequent to this code or ordinances which amend, repeal or in any way affect this code of ordinances may be numbered in accordance with the numbering system of this code and printed for inclusion therein.

B. When Effective: All ordinances passed by the Commission, except emergency ordinances and ordinances for the bare appropriations of money, shall take effect and become valid at the end of thirty days from the date of passage of such ordinance. All ordinances shall be published in a weekly newspaper of general circulation in the City of Cherokee, such publication to be within ten days from the passage of the ordinance, except as otherwise provided by the constitution and the laws of the State of Oklahoma.

C. When Adopted: No ordinance shall be adopted on the day of its introduction before the Commission, but all ordinances, after being introduced, shall lay over for at least one week before finally voted upon and adopted. But this provision shall not apply to emergency ordinances, or ordinances for the bare appropriation of money.

D. Emergency Ordinances: The Commission, by a vote of four members, may pass an emergency ordinance, when the public peace, the public health, or the public safety of the City or the inhabitants thereof, shall, in the judgment of the Commission, demand it. Every emergency ordinance must, after the title, contain the words "Emergency Ordinance," as part of the caption, and every such ordinance shall, in a separate section, briefly state the facts, or the cause affecting the public peace, public health, or public safety, and demanding the passage of the emergency ordinance. All emergency ordinances shall take effect at once, upon their passage.

E. Enrollment: Every ordinance passed by the Commission shall be enrolled by the City Clerk within the next succeeding ten days, or as soon thereafter as practicable. The enrolled copy shall be carefully compared with the ordinance and amendments, if any, by the Mayor, who shall endorse on the enrolled copy the words "Correctly Enrolled," with the date thereof, and subscribe his name thereto. The failure of the Mayor to make the said endorsement shall, in no event cause the ordinance to be vitiated.

F. Ordinances as Evidence: All printed ordinances or codes of ordinances published by authority of the Commission, shall, in all judicial proceedings, in all courts, be admitted as evidence with the same effect and force as would the original ordinance, and in such proceedings it shall not be necessary to plead the entire ordinance or section, but only such parts thereof as are offered in evidence.

G. Initiative and Referendum: All the rights, powers, privileges and authority with the reference to ordinances, resolutions amid legislation given by the City Charter to the Commission, are subject amid subordinate to the rights, powers, privileges and authority of the people secured by and reserved to them in the initiative and referendum provisions now or hereafter in force in the Constitution and the laws of the State of Oklahoma.

H. Amendments to any of the provisions of this code may be made by amending the provisions by specific reference to the section of this code in substantially the following language: "Be it ordained by the Commissioners of the City of Cherokee, Oklahoma, that Section_ of the code of ordinances of the City of Cherokee, Oklahoma, is hereby amended to read as follows:" (Set out new provisions in full).

I. When the Commission desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the City desires to incorporate into the code, a section in substantially the following language may be made part of the ordinance:

Section___. Be it ordained by the Commissioners of the City of Cherokee, Oklahoma, that the provisions of this ordinance shall become and be made a part of the code of ordinances of the City of Cherokee, Oklahoma, and the sections of this ordinance may be re-numbered to accomplish this intention.

J. All sections, articles, chapters or provisions of this code desired to be repealed may be specifically repealed by section as the case may be.

SECTION 1-107 ALTERING CODE.

It is unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the City

to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-108 of this Code.

SECTION 1-108 GENERAL PENALTY.

A. Except as otherwise provided by state law, whenever in this code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine of not exceeding Two Hundred Dollars (\$200.00), for a traffic or parking violation, or Five Hundred Dollars (\$500.00) for any other offense, provided that the penalty may not exceed that penalty provided for the same offense under state law (and in the event that any penalty does exceed such state law penalty, then in that event, such penalty is hereby made consistent with the state law penalty), plus costs and state assessments. Provided however, nothing herein shall restrict the municipal judge from assessing a deferred prosecution fee in the maximum amount permitted by state law. Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.

B. Any person who shall aid, abet or assist in the violation of any provision of this code or any other ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in this section.

SECTION 1-109 FINES RECOVERABLE BY CIVIL ACTION.

All fines shall be recoverable by civil action before any court of competent jurisdiction in addition to any other method provided by law.

SECTION 1-110 ORDINANCES IN EFFECT IN OUTLYING TERRITORY OF CITY.

All ordinances of the City now in effect within the City are hereby extended to all real property belonging to, or under the control of, the City outside the corporate limits of the City, and shall be in full effect therein, insofar as they are applicable. All ordinances of the City which shall go into effect in the future, shall also apply to, and be in full effect within the boundaries of all outlying real property, insofar as they may be applicable. Any words in any ordinance indicating that the effect of an ordinance provision is limited to the corporate limits of the

City shall be deemed to mean and include also the outlying real property belonging to, or under the control of, the City, unless the context clearly indicates otherwise.

SECTION 1-111 SCHEDULE OF FEES AND CHARGES CREATED; SCHEDULE OF BONDS AND DINES, COSTS, FEES AND ASSESSMENTS.

A. There is hereby created a schedule of fees and charges, which shall contain those fees and charges for the various licenses, permits and other fees and charges as designated by the City Council. Where a fee or charge is authorized to be collected by the City in any ordinance the amount of the fee or charge shall be set by resolution and entered into the schedule of fees and charges. The schedule shall be kept on file in the office of the clerk, to whom all fees and charges shall be paid unless otherwise provided. A copy may be obtained upon payment of a fee as set forth in the schedule of fees and charges.

B. The schedule of fees and charges hereby created shall also be known and may be cited as the fee schedule.

C. The following shall be the bond schedule as of the adoption of the Cherokee Municipal Code ("CMC"):

Charge	Fine	\$ of Ok. Stat. or CMC
RULES OF THE ROAD		
Speed		
1 to 10 mph over posted limit	\$125.00	CMC \$ 15-401
11 to 20 mph over posted limit	\$150.00	CMC \$ 15-401
21 to 30 mph over posted limit	\$175.00	CMC \$ 15-401
31 or over posted limit	\$200.00	CMC \$ 15-401
School Zone	\$200.00	CMC \$ 15-402
Failure to reduce weather/road	\$185.00	CMC \$ 15-403
Impede traffic movement	\$200.00	47 §11-804(a)
Operating MV at speed not proper	\$200.00	CMC \$ 15-525

Recklessness or Carelessness

Reckless Driving	\$500.00	CMC \$ 15-522
Eluding Police Officers	\$500.00	CMC \$ 15-522-1
Careless Driving	\$225.00	CMC \$ 15-523
Failure to Devote Full-time	\$150.00	CMC \$ 15-525
Engaging in Speed Contest	\$200.00	CMC \$ 15-526

Charge	Fine	\$ of Ok. Stat. or Cherokee MC
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Following and Backing

Following too Closely	\$150.00	CMC \$ 15-508
Improper Backing	\$150.00	CMC \$ 15-517

Lane Usage

Improper Lane Usage	\$150.00	CMC \$ 15-501
Making Unsafe Lane Change	\$150.00	CMC \$ 15-501
Driving Left of Center	\$150.00	CMC \$ 15-502
Improper Passing on Right Side	\$150.00	CMC \$ 15-503
Improper Passing on Left Side	\$150.00	CMC \$ 15-504
Passing when unsafe to do	\$150.00	CMC \$ 15-505
Unauthorized Direction of Travel	\$150.00	CMC \$ 15-507
Wrong way on one way	\$150.00	CMC \$ 15-507
Passing in no Passing Zone	\$150.00	CMC \$ 15-509
Passing in a school zone	\$150.00	CMC \$ 15-513
Passing School Bus w/loading lights	\$150.00	CMC \$ 15-514
Failure to Signal Intent to Turn	\$150.00	CMC \$ 15-907

Failure to Yield

Failure to Yield to Emergency Vech	\$225.00	CMC \$ 15-212
Failure to Yield to vehicle (Right)	\$150.00	CMC \$ 15-536
Failure to Yield when turning left	\$150.00	CMC \$ 15-537
Failure to Yield (traffic thruway)	\$150.00	CMC \$ 15-539
Failure to Yield (posted stop)	\$150.00	CMC \$ 15-544
Failure to Yield (posted yield)	\$150.00	CMC \$ 15-545
Failure to Yield (private drive)	\$150.00	CMC \$ 15-546
Failure to Yield (to traffic/park)	\$150.00	CMC \$ 15-547
Failure to Yield (alley or dr/way)	\$150.00	CMC \$ 15-548

Traffic Signs

Failure to Stop for Bus	\$100.00	CMC \$ 15-514
Failure to Stop at Stop Sign	\$150.00	CMC \$ 15-544
Failure to Stop at RR Crossing	\$150.00	CMC \$ 15-550
Driving Around Crossing Gate	\$150.00	CMC \$ 15-550
Failure of Required MV to Stop	\$150.00	CMC \$ 15-551
Failure to Obey Traffic Device	\$150.00	CMC \$ 15-603

Charge	Fine	\$ of Ok. Stat. or Cherokee MC
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Traffic Signs - Continued

Failure to Stop for Red Light	\$150.00	CMC \$ 15-604
Failure to Stop for Flashing Red	\$150.00	CMC \$ 15-607

Turns

Failure to Make Required Turn	\$125.00	CMC \$ 15-901
Making Prohibited Turn (posted)	\$125.00	CMC \$ 15-903
Improper U-Turn	\$125.00	CMC \$ 15-904
Turning Vehicle Across Center Line	\$125.00	CMC \$ 15-905
Failure to Signal	\$125.00	CAC \$ 15-907

Driver's License

Violation of License Restriction	\$150.00	CAC \$ 15-215
No Driver's License	\$150.00	CAC \$ 15-215
No Driver's License in possession	\$50.00	CAC \$ 15-215
Driving without proper endorsement	\$50.00	CAC \$ 15-215
Driving Under Suspension (DUS)	\$250.00	CAC \$ 15-216
DUS (subsequent)	\$300.00	CAC \$ 15-216
Allowing unauthorized driver	\$250.00	CAC \$ 15-218

Insurance & Duties at Accidents

Failure to Remain at Accident	\$250.00	CAC \$ 15-219
Failure to Provide information	\$250.00	CAC \$ 15-219
Leaving scene of Fixture Accident	\$250.00	CAC \$ 15-220
Failure to Report Accident	\$250.00	CAC \$ 15-219
Failure to Carry Security Verify	\$125.00	CAC \$ 15-228e
Failure to Maintain Insurance	\$250.00	CAC \$ 15-228

Equipment

Failure to display Valid Tag	\$125.00	CAC \$ 15-217
Driving Vehicle that is unsafe	\$150.00	CAC \$ 15-302
Improper Equipment	\$150.00	CAC \$ 15-303
Improper Equipment after warning	\$200.00	CAC \$ 15-303
Defective Exhaust	\$150.00	CAC \$ 15-304
Operating Unsafe MV	\$150.00	CAC \$ 15-306
Unlawful Riding Upon Vehicle	\$150.00	CAC \$ 15-532
Failure to use Seat Belt	\$20.00	CAC \$ 15-552
Failure to use Child Restraint	\$50.00	CAC \$ 15-552
Failure to Dim Headlights	\$105.00	47 \$ 12-222
Failure to Pay Taxes due the State	\$150.00	47 \$ 1151

Charge	Fine	\$ of Ok. Stat. or Cherokee MC
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Parking

Unsafe Start from Stop	\$150.00	CAC \$ 15-528
Opening door into traffic	\$150.00	CAC \$ 15-529
Parking in excess of posted time	\$100.00	CAC \$ 15-703
Parking where sign prohibited	\$100.00	CAC \$ 15-711
Parking in excess of 48 hours	\$100.00	CAC \$ 15-704
Failure to Set Brakes	\$100.00	CAC \$ 15-705
Failure to obey angle parking	\$100.00	CAC \$ 15-707
Parking within 15' of hydrant	\$150.00	CAC \$ 15-711
Parking within 20' of crosswalk	\$100.00	CAC \$ 15-711
Parking in front of private drive	\$100.00	CAC \$ 15-711
Parking on sidewalk	\$100.00	CAC \$ 15-711
Parking within intersection	\$100.00	CAC \$ 15-711
Parking in alley leaving less 20'	\$100.00	CAC \$ 15-717
Parking traveled portion of street	\$100.00	CAC \$ 15-719
Double Parking	\$100.00	CAC \$ 15-720
One-ton parking in excess of 3 hrs	\$100.00	CAC \$ 15-721
Parking prohibited vehicles	\$100.00	CAC \$ 15-721b
Parking vehicle for sale on road	\$100.00	CAC \$ 15-722
Improper Parking on left side/road	\$100.00	CAC \$ 15-723
Failure to park vehicle right side	\$100.00	CAC \$ 15-723
Negligent Parking	\$100.00	CAC \$ 15-724
Parking in Handicap Space	\$250.00	CAC \$ 15-726

Loads

Operating a MV with unsafe load	\$150.00	CAC \$ 15-302
Operating an overweight load	\$150.00	CAC \$ 15-305
Operating an MV - too long	\$150.00	CAC \$ 15-305
Operating overweight MV	\$150.00	CAC \$ 15-305
Operating MV to high	\$150.00	CAC \$ 15-305
Driver's View Obstructed	\$150.00	CAC \$ 15-305

Motorcycles

Unlawfully carrying passengers	\$150.00	CAC \$ 15-518
Operating w/out required equip	\$150.00	CAC \$ 15-519
Under 18 w/out helmet	\$150.00	CAC \$ 15-519b
Operating with modified exhaust	\$150.00	CAC \$ 15-519c

Charge	Fine	\$ of Ok. Stat. or Cherokee MC
Bicycles		
Bicyclist fails to obey lights	\$100.00	CAC \$ 15-1103
Bicyclist w/out proper lamps	\$100.00	CAC \$ 15-1111
Pedestrians		
Failure to yield to pedestrian	\$175.00	CAC \$ 15-1002
Pedestrian's failure to yield	\$100.00	CAC \$ 15-1005
Pedestrian unlawfully cross high	\$100.00	CAC \$ 15-1009

UNIFORM CITATIONS

Alcohol & Drug Violations

Failure to display license	\$250.00	CAC \$ 3-201
Drinking alcoholic bev in public place	\$150.00	CAC \$ 3-202
Public Intoxication	\$250.00	CAC \$ 3-203
Minors, Parents, Guardians and Alcohol	\$500.00	CAC \$ 3-204
Transportation of Open Container	\$250.00	CAC \$ 3-208
Prohibited Acts	\$500.00	CAC \$ 3-210
Possession of Marijuana	\$400.00	CAC \$ 1-114E
Possession of Drug Paraphernalia	\$500.00	CAC \$ 10-805
Consuming (inhaling) substances	\$500.00	CAC \$ 10-806

Crimes Against Public

Assault & Battery on Police Off.	\$500.00	21 \$ 649
Aggravated Assault & Battery	\$500.00	21 \$ 646
Assault	\$250.00	CAC \$ 10-201
Battery	\$500.00	CAC \$ 10-202
Fighting	\$250.00	CAC \$ 10-203
Trespassing (private)	\$250.00	CAC \$ 10-303
Trespassing (public)	\$250.00	CAC \$ 10-302
Tampering with Property	\$250.00	CAC \$ 10-304
Petit Larceny	\$500.00	CAC \$ 10-305
Obtaining property by fraud	\$500.00	CAC \$ 10-306
Obtaining property by bogus check	\$500.00	CAC \$ 10-306a
Obtaining Utility Service W/out	\$500.00	CAC \$ 10-307
Disorderly Conduct	\$250.00	CAC \$ 10-501
Disturbing the Peace	\$250.00	CAC \$ 10-501
Failure to Disperse upon command	\$250.00	CAC \$ 10-502
Charge	Fine	\$ of Ok. Stat.

or Cherokee MC

Crimes Against Public - Continued

Fighting Words	\$250.00	CAC \$ 10-504
Disturbing by Loud Noise	\$150.00	CAC \$ 10-504
Reporting False Alarms	\$250.00	CAC \$ 10-505
Obstructing an Officer	\$500.00	CAC \$ 10-601
Resisting Arrest	\$500.00	CAC \$ 10-602
Aiding in an escape	\$500.00	CAC \$ 10-603
Escape from Custody	\$500.00	CAC \$ 10-604
Impersonating a police officer	\$500.00	CAC \$ 10-605

Minors

Contributing to Delinquency/Minor	\$500.00	21 \$ 856
Minor in Possession of Alcohol	\$185.00	CAC \$ 3-204
Furnishing alcohol to minor	\$500.00	CAC \$ 3-206
Curfew - minor	\$150.00	CAC \$ 10-901
Curfew - parent	\$150.00	CAC \$ 10-901
Minor in Possession of Tobacco	\$100.00	CAC \$ 10-1003
Truancy - Minor or Parent	\$150.00	CAC \$ 11-1101

Failure to Appear or Obey

Malicious Prosecution	\$200.00	CAC \$ 6-133
Failure to Appear or Obey Promise	\$500.00	CAC \$ 6-134
Failure perform community service	Jail	CAC \$ 6-137
Failure to comply w/lawful order	\$500.00	CAC \$ 15-204

Code Violations

Accumulation Weeds and Trash	\$200.00	CAC \$ 8-101
Unlawful to deposit rubbish	\$200.00	CAC \$ 8-108
Abandoned refrigerator/appliance	\$200.00	CAC \$ 8-114
Junked motor vehicle	\$200.00	CAC \$ 8-401
Storing/Parked/leaving Junk MV	\$200.00	CAC \$ 8-403
Violation of Building Code	\$200.00	Chapter 5 & models
Violation of Zoning Ordinance	\$200.00	Chapter 12

Charge	Fine	\$ of Ok. Stat. or Cherokee MC
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Animals

Permitting Animals to Run at large		
First Offense	\$200.00	CAC \$ 4-102
Second Offense	\$300.00	CAC \$ 4-102
Third or Subsequent Offenses	\$500.00	CAC \$ 4-102
Unlawful keeping of livestock	\$150.00	CAC \$ 4-104
Maintaining Loud Animal	\$150.00	CAC \$ 4-105
Failure to have animal vaccinated	\$150.00	CAC \$ 4-120
Failure to obtain pet permit	\$90.00	CAC \$ 4-121
Maintaining vicious animal	\$250.00	CAC \$ 4-123
Cruelty to animals	\$250.00	CAC \$ 4-140
Poisoning an animal	\$250.00	CAC \$ 4-141
Refusal to Quarantine Animal	\$250.00	CAC \$ 4-175

Weapons

Carrying dangerous weapons	\$200.00	CAC \$ 10-701
Reckless conduct with firearm	\$200.00	CAC \$ 10-702
Discharging in City Limits	\$200.00	CAC \$ 10-703

Miscellaneous

Littering	\$200.00	CAC \$ 8-111
Littering from vehicle	\$200.00	CAC \$ 8-112
Licenses Required	\$100.00	Chapter 9
Soliciting w/out permit	\$200.00	CAC \$ 9-903
Attempting to commit offense	\$200.00	CAC \$ 10-101
Aiding and Abetting an Offense	\$200.00	CAC \$ 10-102
Indecent exposure	\$500.00	CAC \$ 10-401
Nudity in Public Place	\$500.00	CAC \$ 10-401
Obstruction of business street	\$150.00	CAC \$ 10-503
Obstructing Street/sidewalk	\$150.00	CAC \$ 10-503
Unlawful barricade removal	\$150.00	CAC \$ 10-506
Using Fireworks w/in City	\$100.00	CAC \$ 10-704
Selling Fireworks in City	\$100.00	CAC \$ 10-704
Failure to comply with fireman	\$250.00	CAC \$ 15-204
Unlawfully crossing fire hose	\$150.00	CAC \$ 15-214
Driving thru funeral processions	\$150.00	CAC \$ 15-510
Interfering with Driver's View	\$150.00	47 \$11-1104

Court costs of Thirty Dollars (\$30.00) shall be collected on cases excepting parking, standing and seatbelt violations (but not to include a violation of the child restraint ordinance)¹.

All traffic violations not otherwise listed shall be bonded for \$200.00 and costs.

All Criminal violations not otherwise listed shall be bondable for \$500.00 and costs.

In addition to the above-mentioned fines and costs, all appropriate state assessments are required to be paid.

The following deferral fees and administrative fees are properly charged in appropriate cases:

The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the City; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

SECTION 1-112 INSPECTIONS AND RIGHT OF ENTRY.

A. To enforce the provisions of this code, the City Manager or his designee or any other person designated by this code or otherwise shall have a right of entry on premises for inspection purposes in the manner and to the extent as may be authorized by applicable law. This right of entry shall be a condition of any

¹ For 1st offense, and if the defendant purchases a child safety seat and shows it to the municipal court, the fine shall be \$15.00 plus costs.

permit, license, grant or any utility service with or provided by the city. For the purpose of this section, inspection includes records and papers on the premises or of the permittee, licensee, grantee or customer relating to the permit, license, grant or service.

B. Emergency inspections may be authorized if the City Manager or his designated representative has reason to believe that a condition exists which poses an immediate threat to life, health or safety. Such procedure shall take place in accordance with applicable law.

C. Where the City Manager or other designated representative is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, such person shall be in violation of this section.

SECTION 1-113 SEARCH WARRANT OR ACCESS WARRANT

A. Any officer designated by the city to inspect a premises may, upon affidavit, apply to the judge of competent jurisdiction for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code may exist, including one or more of the following;

1. That the premises or records require inspection according to the cycle established by the inspecting officer for periodic inspections of records, buildings or premises of the type involved;
2. That observation of external conditions of the premises and its public areas has resulted in the belief that violations of this code exist; or
3. That any other reasonable basis exists as may be authorized by law.

B. If the judge of competent jurisdiction is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

Section 1-114 ADOPTION BY REFERENCE OF TITLES 21, 37, 37A AND CERTAIN SECTIONS OF TITLE 47 AND TITLE 63 OF THE OKLAHOMA STATUTES, AS AMENDED, AS MUNICIPAL ORDINANCES; DRUGS AND RELATED SUBSTANCES.

A. Title 21 of the Oklahoma Statutes, as amended, is hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

B. Titles 37 and 37A of the Oklahoma Statutes, as amended, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments; provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

C. The following sections of Title 47 of the Oklahoma Statutes, as amended, namely, §§ 4-101 et seq., §§ 6-101 et seq., §§ 7-101 et seq., §§ 10-101 et seq., §§ 11-101 et seq., §§ 12-101 et seq., §§ 13-101 et seq., and §§ 14-101 et seq., are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$200.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

D. The following sections of Title 63 of the Oklahoma Statutes, as amended, namely, §§ 2-402 and 2-405, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and

are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

E. Drugs and Related Substances:

1. Definitions: As used in this section, the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Controlled Dangerous Substance" shall be as defined in 63 Oklahoma Statutes section 2-101.

"Marijuana" shall be defined as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

2. Possession of Illegal Drugs:

- a. It is unlawful for any person knowingly or intentionally to possess any controlled dangerous substance other than marijuana unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as authorized by State law.
- b. The violation of this subsection 2a, shall be punishable by a fine of not more than five hundred dollars (\$500.00) plus court costs, fees and state assessments.

3. Possession of Marijuana:

- a. It is unlawful for any person to knowingly or intentionally possess marijuana without an Oklahoma State issued medical marijuana license.
- b. It is unlawful for any person with an Oklahoma State issued medical marijuana license to knowingly or intentionally possess marijuana in quantities greater than permitted by state law.
- c. The violation of subsections 3a and/or 3b, shall be punishable by a fine of not more than four hundred dollars (\$400.00) plus costs, fees and state assessments.

ARTICLE 2

CORPORATE LIMITS

SECTION 1-201 MAP OF CITY DESIGNATED AS OFFICIAL MAP.

The map of the City showing its territorial limits is hereby designated as the official map of the City, and the corporate limits as shown thereon are declared to be the true and correct corporate limits of the City, including all annexations made to the City through and including the date of this code.

SECTION 1-202 WARD BOUNDARIES.

A. Ward Boundaries. The four (4) wards of the city shall consist of the territory located within the city limits and containing the territory shown as follows:

1. Ward One (1) consists of that portion of the city limits being North of the center of Fifth Street and East of the center of Grand Avenue.
2. Ward Two (2) consists of that portion of the city limits being South of the center of Fifth Street and East of the center of Grand Avenue.
3. Ward Three (3) consists of that portion of the city limits being South of the center of Eighth Street and West of the center of Grand Avenue.
4. Ward Four (4) consists of that portion of the city limits being North of the center of Eighth Street and West of the center of Grand Avenue.

B. Wards Changed: When a petition shall be presented to the Commission, signed by a majority of the legal voters of the City, the majority to be determined by the number of names registered in said City, at the time of the last regular election, praying for a change in the names, number, or boundary of the wards of said City, the Commission shall, at once, cause to be published in a weekly newspaper of said City, in at least three issues, a notice of the day, hour, and place of meeting, at which it will consider such petition. If the Commission shall decide that it is for the best interest of said City then it may make the change in accordance with the petition, the same to take effect at the next regular election, as provided by the laws of the State.

State Law Reference: Review of wards after each federal census, 11 O.S. 20-101; changing wards, 11 O.S. 20-102 to 20-105.

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CHAPTER 2: ADMINISTRATION AND GOVERNMENT

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CHAPTER 2: ADMINISTRATION AND GOVERNMENT

ARTICLE 1

GOVERNMENT ORGANIZATION

SECTION 2-101 FORM OF GOVERNMENT; APPOINTIVE AND ELECTED OFFICERS

The city is governed under a home rule city charter form of government. All powers of the city shall be exercised in the manner prescribed by state law, by the city code, and in such manner prescribed by ordinances adopted by the City Commission. The elective officers of the City of Cherokee shall be five Commissioners, and a City Treasurer. The appointive officers of said city, who are to be appointed by the Commission shall be City Clerk, City Manager, City Attorney, and Municipal Judge. All other necessary officers of City shall be appointed by the City Manager with the consent and approval of the Commission.

Note: See Article III of the City Charter.

SECTION 2-102 CITY COMMISSION

A. Creation and Powers: The legislative powers of the City shall be vested in a Commission composed of five members. The Commissioners sitting as a Commission, shall have the same power to enact all laws and ordinances for the City possessed by the Mayor and city council of a city of the first class under the Constitution and laws of the State of Oklahoma, at the time of the adoption of this Charter, together with all other powers by this Charter granted, with the power to direct and supervise the duties of the City Manager, and all powers hereafter conferred by this Charter, and by the Constitution and the laws of the State of Oklahoma. The Commissioners shall serve without compensation.

B. Qualifications of Commissioners: No person shall be eligible to be a member of a Commission, unless he shall have been a citizen of the United States, and a resident of the City, for at least one year prior to his election or appointment, and have resided in the Ward from which he is elected or appointed for at least thirty days prior thereto, and a registered voter of the city for a minimum of six (6) months prior to filing the candidate's declaration of candidacy. Any Commissioner elected from one Ward and moving to another Ward in said City, or moving outside of said Ward, shall thereby forfeit his office.

C. Election Districts: One Commissioner shall be elected by

each of the qualified electors in each of the four wards in the City; and one Commissioner shall be elected at large beginning as indicated herein and shall hold office until his successor is elected and qualified, unless sooner removed as herein provided. In 2011, Commissioners from Ward 2 and Ward 4 will be elected for a term of four (4) years, and Commissioners from Ward 1, Ward 3 and the Commissioner at Large and the City Treasurer will be elected for a term of two (2) years, Thereafter, all elected officers will be elected for a term of four (4) years.

D. Ordinances and other Measures Adopted: Three members of the Commission shall constitute a quorum, and the affirmative vote of three members shall be necessary to adopt any motion, ordinance, or pass any measure. Upon every vote the ayes and nays shall be called and recorded, and every motion, resolution, or ordinance shall be reduced to writing and read before the final vote is taken thereon. Every ordinance passed by the Commission must be signed by the Mayor or by the Mayor Pro Tem, when so acting, and be recorded and published before the same shall be in force and effect, except as otherwise herein provided.

SECTION 2-103 MEETINGS OF THE COMMISSION

A. All meetings of the Commission, whether regular, special or emergency, shall be called, held and governed under the terms of the Oklahoma Open Meetings Act, as provided by Title 25, Sections 301 through 314 of the Oklahoma Statutes, or as such Act may be hereinafter amended. The Commission may be called in special session by the Mayor, City Manager, or by two of the Commissioners. Any adjourned meeting may be held at any other place in the city designated by the council.

B. A special meeting shall be conducted on the first Monday in May following a general election where newly elected Commissioners will take the oath prescribed by the Constitution of the State of Oklahoma. The Commission may be called in special session by the Mayor, or by two of the Commissioners.

C. The council may from time to time adopt rules to govern the proceedings of the council.

D. All meetings of the Commission will be conducted in accordance with the Oklahoma Open Meetings Act.

SECTION 2-104 MAYOR'S POWERS AND DUTIES; MAYOR PRO TEM

A. Mayor: The Commissioner elected at large shall be the Mayor. He shall have no power to veto any measure and shall have

a vote on all questions. The Mayor shall be recognized as the official head of the City for all ceremonial purposes; by the courts for serving civil processes; and by the Governor for military purposes. In the time of public danger, or emergency, he may, with the consent of the Commission, take command of the police and maintain order, and enforce laws.

B. Mayor Pro Tem: At the first meeting of each newly constituted City Commission, it shall by a majority vote, elect one of its members Mayor Pro Tem, who shall, in the absence of the Mayor, serve as Mayor with the title of Mayor Pro Tem, with all of the powers and duties vested in the Mayor.

SECTION 2-105 COMMISSIONERS POWERS AND DUTIES

A. In General: The City of Cherokee shall have perpetual succession, and shall succeed to, own and possess all the property, rights, privileges, franchises, powers, and immunities now belonging to the present corporation, known as the City of Cherokee, and shall be liable for all debts and obligations for which said present corporation is now liable; shall have the power to adopt and use a common seal; to sue and be sued in all courts; to make contracts; to take and acquire property by purchase, condemnation or otherwise; to hold, lease, mortgage, convey, or otherwise dispose of its property, within or without the limits of said City; and all other powers that may hereafter be given it by the Constitution and laws of Oklahoma; and where any provision of the Charter shall be in conflict with the laws of the State, relating to the cities of the first class, in force at the time of the adoption and approval of this Charter, the provisions of this Charter shall prevail. Said city shall have power to enact and enforce all ordinances necessary to protect health, life and property; to define, prevent and summarily abate and remove nuisances; to preserve and enforce good government and order in order to protect lives, health and property of the inhabitants of said City; and to enact and enforce all ordinances upon any subject; provided, that no ordinance shall be enacted, inconsistent with the general laws of the State of Oklahoma, and of the Constitution of the State.

B. Home Rule Pronouncement: The legislative, executive, and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof, that the specifications of particular powers, by any other provision of this Charter, shall never be construed as limiting or impairing the effect of the general grant or powers hereby made.

C. General Powers: The City shall have the power to receive

bequests, gifts or donations of all kinds of property in fee simple, or in trust for charitable, or public purposes, and perform all acts necessary to carry out the purposes of such bequests, donations or trusts, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the bequest, gift, or donation.

D. Special Powers: The Commission shall have power, by ordinance to:

1. Regulate the keeping of public places, theaters, picture shows, dance halls; the driving of all public conveyances; the sale of all foods and drugs; and keeping of certain animals within the City limits; the running at large of animals and fowls; minors being upon the streets between certain hours; the opening of places of business on Sabbath day; the use, speed, handling and parking of automobiles, motorcycles, tractors and other power driven vehicles upon the streets; and the collection of occupation taxes.

2. Prohibiting gambling, profanity, dram shops; public resorts, bawdy houses; prize fights; carrying of weapons as may be prohibited by law; beggars, fortune-tellers and vagrants from plying their arts and professions; the making of unnecessary noises, and use of fireworks at certain times and locations; cruelty to animals; driving loose animals through the streets; the use of roller skates and bicycles upon the sidewalks, if desired; dogs from running at large, and providing a dog tax, if desired.

3. Providing places of detention for incorrigibles, and work places and prisons for criminals.

4. The Commission shall have the power to enact such substantive and remedial ordinances, adopt such resolutions, establish such rules, and provide such measures, fines, and punishments, as shall be necessary for and convenient in giving execution and effect to this Charter, and every part and portion thereof.

D. Removal of Commissioners: The Commissioners, or any of them shall be subject to removal from office in the manner, and for the same cause as provided by the laws of Oklahoma for the removal of county officers, it being the intent hereof to provide cumulative procedure and cause for removal.

SECTION 2-106 VACANCY IN THE OFFICE OF MAYOR OR MAYOR PRO TEM

In the event of a vacancy in the office of the Mayor, the Mayor Pro Tem shall serve as Mayor, with all of the powers and

duties vested in the Mayor until such vacancy is filled as provided for by the City Charter.

SECTION 2-107 CITY MANAGER; APPOINTMENT BY COMMISSION; POWERS AND DUTIES

A. Appointment: The Commission, as soon as practicable after its members qualify, and it is duly organized, shall, by a majority vote, appoint a City Manager. He shall be chosen by the Commission solely upon the basis of his executive and administrative qualifications. He shall be appointed for an indefinite period and shall be removed at the pleasure of the Commission, by a majority vote thereof. The City Manager shall hold office until his successor shall be appointed and shall qualify, and thereafter whenever vacancy shall occur in said office the same shall be filled by appointment of the Commission. The City Manager, before taking his office shall qualify, as provided in this section.

B. Powers and Duties: The City Manager shall be the administrative head of the municipality and its chief executive officer, under the direction and supervision of the Commission. He shall have the special powers and duties herein enumerated, and all shall be directly responsible to the Commission for the proper administration and execution thereof, to-wit:

1. To see that all laws and ordinances governing the City are enforced.

2. Except as to persons appointed by the City Commission or elected pursuant to this Chapter, to appoint all directors or heads of departments, all subordinate officers and employees in such departments, all police officers, and when needed, a City Engineer, and shall have power to remove said officer or employees for the good of the service. Such appointments shall be made upon the basis of merit and fitness alone, including proper subordination. The City Manager shall, with the approval of the Commission, fix the number and compensation of all the officers, heads of departments and employees appointed by him.

3. To exercise management control and supervision over all departments of City government and its employees, and to exercise all other administrative and executive functions, except as otherwise in this Charter provided.

4. To supervise and manage all public work amid improvements of the City, and the repair and maintenance thereof. To manage and control all public utilities of the City, including waterworks,

electric light, and power plants, pavements, libraries, cemeteries, public service corporations operating under a city franchise, and such other public utilities as are, or may hereafter be established and not herein provided for. He shall have general charge of the cleaning, sprinkling, lighting, improving, paving, opening, grading, repairing of the streets, sidewalks, sewers, bridges, crossings, and public grounds within the City limits and without except as otherwise herein provided.

5. To enforce all ordinances relating to the City affairs, and have general supervision with reference to health, peace, safety, fire department and sanitation. He shall be custodian of the City Hall and city jails, except as otherwise here provided.

6. To recommend, to the Commission, for adoption, such measures as he may deem necessary and expedient, and is to keep the Commission fully advised as to the financial condition of the City.

7. To make a monthly report to the Commission, and to attend all meetings of the same, with the right to take part in the discussion but having no vote.

8. To submit to the Commission at each meeting thereof an order of business, covering his recommendations and to create such departments for the more efficient and economical administration of the affairs of the City, as to him shall seem necessary and expedient, with the approval of the Commission.

9. To see that all financial rights and provisions are justly enforced; to prepare and submit to the Commission an annual budget.

C. Purchasing Agent: The City Manager, as purchasing agent for the City, shall have authority to make reasonable and necessary expenditures on behalf of the City in an amount not exceeding the amount set by Section 7-104 of this Code, without prior approval of the Commission, unless said expenditure is needed due to an emergency that endangers the public health, safety or welfare, in that event said amount shall not exceed the sum of \$75,000.00 without prior approval of the Commission, pursuant to 7-116.

SECTION 2-108 CITY TREASURER

A. Qualifications: The City Treasurer shall be qualified elector of the City at the time of his election and shall otherwise be qualified, as subject to removal, He shall be elected for a term of four years beginning in 2001 and shall hold office until

his successor is elected and qualified from office, the same as a Commissioner as herein provided, unless sooner removed as provided in the Charter.

B. Duties: The City Treasurer shall have the custody of the funds of the City and shall pay out the same only upon the order of the Commission, attested by the City Clerk and signed by the Mayor. He shall, under the direction of the Commission, invest the funds of the City, only in such securities as are provided by the Constitution and the laws of the State of Oklahoma for the investment of school funds of the State, and uninvested funds shall be deposited in the depositories of the City.

C. Authorized Investments of Public Monies. The Commission, by written investment policy duly approved, shall provide for the investment of public monies pursuant to state law. All or a portion of these monies may be transferred by the Commissioners to the Cherokee Development Authority, and if so transferred, shall be invested pursuant to a written investment policy as authorized by state law.

D. Depository: The City depository shall secure the City for all deposits by giving good and sufficient bond with approved security. Said bond shall equal the sum of the probable maximum deposits of the City at one time with said depository, and a new bond may be required by the Commission at any time when the existing bond or bonds shall be deemed insufficient; provided, that the Commission shall have the power to take from such depository in lieu of such bond, any outstanding bonds or warrants of the City of Cherokee, properly assigned, to be held by the City Treasurer as collateral security, and to the extent of the par value of such bonds or warrants the said depository shall be released from the above surety bond. If the amount deposited is collateralized or insured as provided by state and federal law for municipal funds the preceding provision shall not apply.

SECTION 2-109 CITY CLERK

A. Qualifications: The City Commission shall appoint for an indefinite period of time, a qualified person as City Clerk.

B. Powers and Duties: He shall have all the powers and duties now provided by law or ordinance, except as otherwise provided in the Charter. He shall be Clerk of the Commission. He shall have the custody of, and be responsible for all books,

papers, maps and records belonging to the City, not in actual use by other officers or by special provisions, committed to their custody, otherwise provided for. He shall attend all meetings of the Commission and keep a record of the proceedings of the same and shall sign and attest all ordinances, resolutions, or other acts of the Commissions. He shall keep the books properly indexed and open to the public inspection when not in actual use. He shall keep separate books in which shall be kept all ordinances, resolutions, and other record proceeding of the Commission. He shall countersign all warrants for the payment of moneys drawn on the City Treasurer and shall issue receipts for all moneys or other things of value coming into his office. He shall certify to the correctness of all reports made public by the Commission and shall be custodian of the City seal. He shall be the chief accountant officer of the City, except as otherwise provided, and shall prepare such financial statements and reports of the financial condition of the City as may be required by the Commission, or by ordinance. He shall deposit, daily, with the City Treasurer, all money collected by him, for whatever source derived, taking receipt therefor. He shall have charge of the collection of all special taxes, licenses, fees and revenues of the City, from whatever source; and such other duties as maybe required of him by the Commission, the Charter or this Code.

C. Payments to the City made to the City Clerk: Except as otherwise provided in this Code, state law or this Charter, all fees or moneys collected by any officer or employee shall be paid to the City Clerk, and receipts taken therefore, which receipts shall show the purpose for which the money was collected.

D. Temporary Absence or Vacancy: When the City Clerk is temporarily absent due to personal leave or the position is vacant and the City Council has not made an appointment, temporary or permanent, or has made an appointment but the City Clerk has not yet been qualified, the City Manager may appoint a City Clerk designee to carry out and execute all the duties assigned or delegated to the City Clerk by the Charter, ordinance, or applicable state law. Any City Clerk designee appointment will last only as long as necessary to fully meet the requirements of the City Clerk's duties as defined by ordinance or the City Charter during the duly appointed City Clerk's temporary absence or vacancy. Any appointment made due to temporary absence shall not last longer than thirty (30) days. During times when the position of City Clerk is vacant, the City Manager may appoint a City Clerk designee until the City Council makes a temporary or permanent appointment.

SECTION 2-110 CITY ATTORNEY

A. Qualifications: The office of City Attorney is hereby created, in accordance with the laws of the State of Oklahoma. The Commission shall appoint a City Attorney, who shall be duly admitted to the practice of law by the State of Oklahoma and be actively engaged in his profession.

B. Duties: It shall be the duty of the City Attorney to advise the Commission, and each member thereof, and the City Manager, upon all questions coming before said Commission, or the City Manager, and shall give opinions, in writing, when requested, and shall represent the City as counsel in all litigations, in all courts, wherein the City is a party or is interested, as may be required by the Commission.

SECTION 2-111 VACANCIES

A vacancy shall exist when an elective officer fails to qualify within twenty days after notice of his election, dies, resigns, removed from the City, absents himself therefrom for a period of ninety days, except on account of sickness, is convicted of a felony, or is otherwise legally disqualified. If the office of a Commissioner or of City Treasurer shall become vacant from any cause, the Commission shall appoint some eligible person to fill such vacancy, who shall hold office until the next regular municipal election; such appointed officer shall hold his office until his successor is elected and qualified. All elective officers shall hold their respective offices, subject to the provisions of the recall, as herein provided, or may be removed from office as provided by law.

SECTION 2-112 OATH AND BOND

All officers of the City, elective or appointive, upon entering upon the duties of office, shall take the oath of office prescribed by the Constitution of the State, and shall, before entering upon the duties of office, give such bond as may, by ordinance, be required, the same to be approved by the Commission, for the faithful performance of the duties of the office. Provided, that each Commissioner shall give a good and sufficient bond in the sum of \$1,000.00 to be approved by the City Treasurer; provided, further, that all heads of departments shall take oath, and give bond, if required by ordinance, but no oath or bond shall be required of laborers. All bonds shall be given in favor of the City of Cherokee.

SECTION 2-113 COMPENSATION

A. Effective on and after July 1, 2021, the salary of the hereinafter designated officers and employees of the City of Cherokee are fixed in the amount as hereinafter set forth:

1. City Clerk: The annual sum of \$45,945.00 plus employee benefit package.

2. City Manager: The annual sum of \$71,441.92 plus employee benefit package.

3. Municipal Judge: The annual sum of \$5,513.34 payable monthly.

4. City Treasurer: The annual sum of \$4800.00 per year, payable in pro-rata payments on a bi-weekly basis. On and after May 2025, the annual sum of \$4,900.92 payable in pro-rata payments on a bi-weekly basis.

5. City Attorney: The City Attorney shall be paid an hourly rate agreed to by the City Commission, payable monthly, and such other amounts for performing legal services as Trust Attorney as may be mutually agreed to in writing.

SECTION 2-114 NO ELECTIVE OR APPOINTIVE OFFICER SHALL HOLD TWO OFFICES

No person holding office by election or appointment under the United States Government, the State of Oklahoma, or any other state or municipality shall hold any position or office under said City which would otherwise be prohibited by state or federal law.

SECTION 2-115 NO INTEREST IN CONTRACTS

No officer or employee of the City, elected or appointed, shall be interested directly or indirectly in any contract or job of work, or for material, or supplies, or the profits thereof, or any purchase made for, or sales made by, to, or with the City, or own Stock in any corporation having any contract or subcontract, for doing any contract, or job or work, and all such contracts with such City officer or employee, shall be void. The violation of this clause shall be deemed a sufficient cause for removal from office or employment of such officer or employee and shall be sufficient to subject the offender to prosecution under the laws of the State of Oklahoma.

SECTION 2-116 BRIBERY

It shall be unlawful for any candidate for office, or for any officer or employee of the City, directly or indirectly, to give, or promise to give, any person or persons, any office, position, employment, or anything of value for the purpose of influencing or obtaining support, political or otherwise, aid, or influence of any person or persons the doing of any of which things shall be grounds for removal from office of such officer, employee, or candidate, if elected, and he shall be amenable to the laws of the State for the offense committed.

SECTION 2-117 MALFEASANCE IN OFFICE

No person, employee, agent or servant of the City shall take, accept, or receive either directly or indirectly, any fee, money, employment, gift, compensation, reward, gratuity, or anything of value, or otherwise, except the official salary for or because of the performance, or nonperformance of any duties of his office, or any action or failure to act in regard or incident thereto. Any officer, employee, agent or servant who shall violate either the letter or spirit of this section shall be guilty of a crime, and upon conviction therefor shall be punished as provided by the laws of the State and removed from office.

SECTION 2-118 NEPOTISM

No person within the third degree of any Commissioner or the City Manager, shall be appointed to any City office or employment.

SECTION 2-119 HOLDING OUT PERIOD FOR COMMISSIONERS

No Commissioner shall be appointed to any office created by the Commission during his term of office, until the expiration of one year after his connection with said office shall have been served.

SECTION 2-120 RECALL

A. Who Recalled: The holding of an elective office either by election or appointment to fill a vacancy, may be removed at any time after six months from the date of his accession to said office, by the electors qualified to vote for a successor to such incumbent, in the following manner:

B. How Recalled: When a petition demanding the election of a successor of the person sought to be removed, containing a

general statement of the grounds for which the removal is sought, and signed by a number of the qualified voters of the City equal to, or greater than 35 percent of the total vote cast for Mayor at the last preceding general municipal election, shall be filed with the City Clerk, he shall within ten days after such filling, examine and ascertain if said petition be in due form, and signed by the required number of qualified voters, and attach to said petition his certificate showing the result and conclusion of his examination, If the petition be found to be sufficient, the City Clerk shall immediately submit the same to the Commission.

C. Election Called: Upon the submission of a recall petition to the Commission, it shall immediately order a special election, and the date for holding the same, which shall not be less than 20 days, nor more than 30 days from the date of the submission of the petition to the Commission. If the recall petition asks for the recall of two or more of the Commissioners, then the City Clerk shall call the election.

D. Results of Election: The Commission shall cause necessary notice to be published, and make all arrangements for holding such election, and the same shall be conducted, held and the results thereof declared in all respects as any other City election, amid the candidate receiving the highest number of votes cast at such election shall be declared elected to such office, and shall, immediately upon his qualification therefor, enter upon the discharge of the duties thereof. The person sought to be removed may be a candidate to succeed himself, and unless he requests, in writing, otherwise, the City Clerk shall place his name upon the official ballot without nomination. In such election if some candidate other than the person sought to be removed, is elected, the incumbent shall thereupon be deemed removed from office upon qualification of his successor, and should the person elected, fail to qualify within ten days, after being notified of his election, the office shall be deemed vacant. If the incumbent be a candidate at such election and shall be elected to such office, he shall continue therein without again qualifying therefor.

SECTION 2-121 RULES OF ORDER AND PROCEDURE.

A. The Commission may determine its own rules and may compel the attendance of absent members in the manner and under penalties as the Commission may prescribe. Whenever a Commissioner is absent from more than one-half of all meetings of the Commission, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office.

B. The order of business for each meeting of the Commission may be as posted on the agenda for the meeting.

C. The following rules of procedure shall apply to any regular or special meeting of the Commission unless two (2) Commissioners agree to waive the rule or rules:

1. If requested by the Mayor or any Commissioner, any motion shall be reduced to writing;

2. A motion to reconsider any of the proceedings of the Commission shall not be entertained unless it is made by a Commissioner who previously voted in the majority;

3. No motion shall be debated or put until it be seconded and stated by the Mayor. It is then and not until then in possession of the Commission and cannot be withdrawn but by leave of the Commission;

4. A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion;
- b. When made as an interruption of a Commissioner while speaking;
- c. When the previous question has been ordered; or
- d. While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is adjourned;

5. When a question is under debate, no motion shall be received but:

- a. To adjourn;
- b. To lay on the table;
- c. For the previous question;
- d. To postpone to a day certain;
- e. To commit;

- f. To amend; or
- g. To postpone indefinitely,

which several motions shall have precedence in the order they stand arranged;

6. When a proper motion is made, but information is wanted, the motion is to postpone to a day certain;

7. Matters claiming present attention for which it is desired to reserve for more suitable occasion, the order is a motion to lay on the table; the matter may then be called for at any time. If the proposition may need further consideration at the hands of a committee, the motion is to refer to a committee, but if it needs but a few and simple amendments, the Commission shall proceed to consider and amend at once;

8. On an amendment being moved, a Commissioner who has spoken on the main question may speak again to the amendment;

9. The question is to be put first on the affirmative and then on the negative side. After the affirmative part of the question has been put, any Commissioner who has not spoken before to the question may arise and speak before the negative to be put; and

10. When a question has been moved and seconded and has been put by the presiding officer in the affirmative and negative, it cannot be debated unless under motion for reconsideration.

SECTION 2-122 PERSONNEL MANUAL ADOPTED

A. There is hereby created the City of Cherokee Policy and Procedures Manual for the employees of the City of Cherokee, which Personnel Manual is adopted as of the 1st day of August 1996, as amended. The Personnel Manual sets out guidelines which may be used in implementing the personnel policies, employee benefit programs and wage plans of the City of Cherokee. The Personnel Manual establishes no property or contract rights or liberty interests in continued employment, wages or benefits or any other matter for employees of the City. Except as otherwise provided by state law, all employees of the City of Cherokee shall serve at the will of the appointing authority and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. Appointments and promotions shall be made solely on the basis of merit and fitness.

SECTION 2-123 COMPENSATION OF EMPLOYEES, NUMBER AND CLASSES OF PERSONNEL.

The compensation of all other officers and employees excepting those whose compensation the law requires to be set by ordinance, may be determined by the City Manager provided sufficient appropriations have been previously approved by the City Commission.

SECTION 2-124 SALARIES OF CERTAIN OFFICERS NOT TO BE CHANGED AFTER ELECTION OR APPOINTMENT.

In no case shall the salary or emoluments of any City officer elected for a definite term, be changed after his election or during his term of office unless by operation of an ordinance passed prior to such election or appointment, such being prohibited by the Constitution, Article 23, Section 10. This provision shall not apply to officers chosen for indefinite terms nor to employees.

SECTION 2-125 OFFICERS TO CONTINUE UNTIL SUCCESSORS ARE ELECTED AND QUALIFY.

Every officer who is elected or appointed for a definite term, shall continue to serve thereafter until his successor is elected or appointed and qualifies, unless his services are sooner terminated by resignation, disqualification, removal, death, abolition of the office, or other legal matter.

ARTICLE 2 AND 3 - RESERVED

ARTICLE 4

SOCIAL SECURITY

SECTION 2-401 DECLARATION OF POLICY TO COME UNDER COVERAGE.

Except those employees whose may be specifically and legally exempted from compliance with this ordinance, it is hereby declared to be the policy and purpose of the City to extend, at the earliest date, to the eligible employees and officials of the City the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and all amendments thereto, and Sections 121 et seq. of Title 51 of the Oklahoma Statutes. In the pursuance of this policy, the officers and employees of the City shall take such action as may be required by applicable state or federal laws or regulations.

State Law Reference: Social security coverage for local governments, 51 O.S. § 125.

SECTION 2-402 EXECUTION OF AGREEMENT WITH STATE AGENCY.

The Mayor is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of Section 2-401 of this code.

SECTION 2-403 WITHHOLDINGS.

Withholdings from salaries or wages of employees and officials for the purposes provided in Section 2-401 of this code are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws or regulations and shall be paid over to the state or federal agency designated by the laws and regulations.

SECTION 2-404 CONTRIBUTIONS.

Employer contributions shall be paid from amounts appropriated for these purposes from available funds to the designated state or federal agency in accordance with applicable state or federal laws or regulations.

SECTION 2-405 RECORDS AND REPORTS.

The City shall keep such records and submit such reports as may be required by applicable state or federal laws or regulations.

SECTION 2-406 EXCLUSIONS.

Excluded from this chapter authorizing the extension of social security benefits to City officers and employees are the following:

1. Any authority to make any agreement with respect to any position, employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the City; or

2. Any authority to make any agreement with respect to any position, employee or official for which compensation is on a fee basis, or any position, employee or official not authorized to be covered by applicable state or federal laws or regulations.

SECTION 2-407 POLICE INCLUDED.

All police personnel of the City shall hereafter be covered by the social security program along with personnel already covered by the program, and proper deductions from police payrolls shall hereafter be made in order to comply with social security laws and regulations.

ARTICLE 5

RETIREMENT AND PENSIONS

DIVISION 1

FIRE PENSION SYSTEM

SECTION 2-501 FIRE FIGHTER PENSION AND RETIREMENT SYSTEM

There is hereby created, for the purpose of providing pension retirement allowance and other benefits for fire fighters of the city, a fire fighters pension and retirement system. It is declared to be the official policy of the city to participate in the pension system as provided by state law.

State Law Reference: Firefighter's pension system, 11 O.S. §§ 49-101 et seq.

SECTION 2-502 SYSTEM TO BE OPERATED IN ACCORDANCE WITH LAW.

A. The fire fighters' pension and retirement system as established by Sections 49-100.1 et seq. of Title 11 of the Oklahoma Statutes is hereby adopted by reference.

B. There is hereby created the Council of the fire relief and pension fund of the city. The Council of the fire fighters' pension and retirement system, servicing the fire fighters of the city, shall be constituted as provided by state law and shall have the powers and duties prescribed thereby.

DIVISION 2

RESERVED

DIVISION 3

EMPLOYEE RETIREMENT SYSTEM

SECTION 2-520 CREATED

Pursuant to the authority conferred by the laws of the state and for the purpose of encouraging continuity and meritorious service on the part of the city employees and thereby promote public efficiency, there is hereby authorized, created, established, approved and adopted, effective as of January 1, 2020, the amended and restated Plan designated "Employee Retirement System of the City of Cherokee & Cherokee Development Authority, Oklahoma, Defined Benefit Plan" (hereinafter called "system"), and as amended, an executed counterpart of which is marked "Exhibit A" (Joinder Agreement) and Exhibit "B" (amended and restated plan) and attached hereto as part thereof.

Ed Note: Plan and Exhibits to be found in the Office of the City Clerk.

SECTION 2-521 AMENDED.

A. AMENDATORY. The Employee Retirement System, Defined Benefit Plan, of the City of Cherokee & Cherokee Development Authority, Oklahoma, is hereby amended as reflected on the attached Exhibit "A", which is incorporated herein and adopted by reference. These amendments shall become effective on July 1, 2021.

B. EXECUTION AUTHORIZATION. The City Clerk and Mayor be and they are hereby authorized and directed to execute the amended Retirement System Plan documents and to do all the other acts necessary to put said amendment into effect and to maintain IRS qualification of the Plan. The executed amended document attached hereto as Exhibit "A" is hereby ratified and confirmed in all respects.

C. SPECIAL INCOME TAX TREATMENT FOR CONTRIBUTIONS UNDER IRC414. The Plan contains provisions which are intended to constitute a pick-up program by the Employer which satisfies the requirements of section 414(h)(2) of the Internal Revenue Code of 1986 (the "Code"); and the Plan, be, and it is, approved and adopted as of the date therein stated; and Mandatory Contributions (as defined in the Plan) are designated "picked-up" by the employer so as to not be included in Plan Participants' gross income for Federal income tax purposes as provided in Section 414(h)(2) of the Code. All Mandatory Contributions are to be paid by the

employer in lieu of contributions by the Plan Participant. No Participant in the Plan shall have the option of choosing to receive the amounts of Mandatory Contributions directly in lieu of having such amounts paid by the employer to the Trustees of the Plan.

SECTION 2-522 FUND.

The fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be non-fiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

SECTION 2-523 APPROPRIATIONS.

The City of Cherokee and Cherokee Development Authority, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Cherokee and Cherokee Development Authority, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Contribution Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

SECTION 2-524 EXECUTION.

A. The Mayor and City Clerk are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes

therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

B. This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Cherokee and Cherokee Development Authority, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

SECTION 2-525 CONFLICTING LAWS.

Any ordinance inconsistent with the terms and provisions of this chapter is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this chapter shall be cumulative of other ordinances regulating and governing subject matter covered by this chapter.

ARTICLE 6

CITY RECORDS

SECTION 2-601 APPOINTMENT OF OFFICIAL CUSTODIANS.

The following City officials are hereby appointed as official custodians for purposes of the Oklahoma Open Records Act and are charged with responsibility for compliance with that act with respect to the following listed public records:

1. City Clerk. All public records kept and maintained in the City and court clerk's office and all other public records not provided for elsewhere in this chapter;

2. City treasurer. All public records not on file in the office of the City Clerk and kept and maintained in the City treasurer's office;

3. Chief of police. All public records not on file in the office of the City Clerk and kept and maintained in the City police department;

4. Fire chief. All public records not on file in the office of the City Clerk and kept and maintained in the City fire department;

5. City attorney. All public records not on file in the office of the City Clerk and kept and maintained in the City attorney's office;

6. City Manager. All public records not on file in the office of the City Clerk and kept and maintained in the City Manager's office;

6. Court clerk. All public records not on file in the office of the City Clerk and kept and maintained in the municipal court.

State Law Reference: Open Records Act, 51 O.S. §§ 24A.1 to 24A.18.

SECTION 2-602 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

A. Each of the official custodians appointed in Section 2-601 of this code is hereby authorized to designate any subordinate officers or employees to serve as record custodian. The record custodians shall have such duties and powers as are set out in the Oklahoma Open Records Act.

B. Whenever an official custodian shall appoint another person as a record custodian, he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations.

SECTION 2-603 DUTIES OF CUSTODIANS.

All City officials and employees appointed or designated under this chapter shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the City; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this City for inspecting and copying open public records.

SECTION 2-604 REQUESTS TO BE DIRECTED TO CUSTODIANS.

A. All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Oklahoma Open Records Act, shall address their requests to the custodian charged with responsibility for maintenance of the record sought to be inspected or copied.

B. Whenever any City official or employee appointed or

designated as a custodian under this chapter is presented with a request for access to, or copy of, a public record which record the custodian does not have in his possession and which he has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. The person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

SECTION 2-605 PROCEDURES REGARDING BOTH INSPECTION AND COPYING OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

1. Consistent with the policy, duties and procedures established by the Oklahoma Open Records Act, record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records;

2. Record custodians shall protect the integrity and organization of public records with respect to the manner in which such records are inspected and copied;

3. Record custodians may prevent excessive disruptions of essential functions and provide the record at the earliest possible time;

4. All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records;

5. All persons requesting the inspection of or a copy of open public records shall make such request in writing prior to the request being honored, except that no form shall be required for requests made for records which have been reproduced for free public distribution;

6. All record inspection and copying forms are to be completed by the person requesting the record. The record custodian may demand reasonable identification of any person requesting a record;

7. Any fees for record inspection or for copies are due at the time the records, or copies thereof, are provided to the requester, unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian or City Clerk;

8. The record custodian or City Clerk shall demand full or partial prepayment of the fees when the estimate for such fees exceeds the amount set out in Section 2-612 of this code;

9. No record search or copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties;

10. Hours for making requests for inspection or copying shall be all regular working hours for each day the office maintains regular office hours;

11. Removal of open public records from the office where kept and maintained, for purposes of inspection or the making of copies, shall not be permitted; and

12. The above procedures, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the record custodian.

SECTION 2-606 PROCEDURES REGARDING INSPECTION OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be applied by every official custodian and record custodian:

1. Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

2. All request forms must be completed by the party requesting the record. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian and presented to the record custodian;

3. A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the custodian shall assist in making such identification; and

4. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the Mayor.

SECTION 2-607 PROCEDURES REGARDING COPIES OF OPEN PUBLIC RECORDS.

The following procedures are hereby adopted and shall be

applied by each official custodian and record custodian:

1. Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records;

2. All request forms must be completed by the party requesting the copies. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodians;

3. Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanical reproducing the subject record is likely to cause damage to such record; and

4. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the record custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.

SECTION 2-608 NO FEE FOR INSPECTION.

Where a request has been made for the inspection of an open public record, no fee shall be charged.

SECTION 2-609 COPYING FEE.

A fee per page as set by Fee Schedule shall be charged for photocopying an open public record, such fee to cover the cost of labor, materials and equipment.

SECTION 2-610 FEE FOR MECHANICAL REPRODUCTION.

For copying any open public record which cannot be reproduced by photocopying, such as a computer printout or a blueprint, the requester shall be charged the actual cost to the City, including the cost of labor, materials and equipment.

SECTION 2-611 SEARCH FEE.

The fee provided in Fee Schedule shall be charged a requester who is using the record solely for a commercial purpose. Such fee shall be charged to recover the direct cost of document search.

SECTION 2-612 PREPAYMENT OF FEES.

A record custodian may demand prepayment of a fee. The prepayment amount shall be an estimate of the cost of copying, mechanical reproduction or searching for the record. Any overage or underage in the prepayment amount shall be settled prior to producing the requested record or delivering the copy or mechanical reproduction of the record.

SECTION 2-613 FEES.

Fees shall be charged for copies and services rendered hereunder pursuant to the City's fee schedule.

CHAPTER 3
ALCOHOLIC BEVERAGES

ARTICLE 1

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

SECTION 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES
SECTION 3-102 OCCUPATION TAX LEVIED.
SECTION 3-103 PAYMENT REQUIRED; PENALTY
SECTION 3-104 ANNUAL REPORT.
SECTION 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION SECTION
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ARTICLE 2

ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

SECTION 3-201 DISPLAY LICENSE
SECTION 3-202 DRINKING IN PUBLIC.
SECTION 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.
SECTION 3-204 MINORS AND ALCOHOLIC BEVERAGES.
SECTION 3-205 POSSESSION OR CONSUMPTION OF ALCOHOLIC
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CONSUMING ALCOHOLIC BEVERAGES
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CHAPTER 3
ALCOHOLIC BEVERAGES
ARTICLE 1

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

Section 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES

All of the terms and phrases used in this Chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act, 37A O.S. §1-101 et seq. Titles 37 and 37A of the Oklahoma Statutes, as amended, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and are enforceable by the Town within the Town limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments; provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

Section 3-102 OCCUPATION TAX LEVIED.

There is hereby levied and assessed an annual occupation tax on every business or occupation that has its principal place of business in Cherokee, Oklahoma and is required to have a licensee from the Alcoholic Beverage Laws Enforcement Commission as specifically enumerated hereinbelow, and in the amount therein stated. No person or business subject to the payment of an occupation tax provided for herein shall ever be assessed more than a \$100.00 annual occupation tax, without regard to the number of licenses required.

Brewer	\$100.00
Small Brewer	\$100.00
Small Brewer Self-	\$100.00
Distribution	
Brew Pub	\$100.00
Brew Pub Self-Distribution	\$100.00

Distiller	\$100.00
Winemaker	\$100.00
Winemaker Self-Distribution	\$100.00
Small Farm Winery	\$75.00
Wine and Spirits Wholesaler	\$100.00
Beer Distributor	\$100.00
Retail Spirits	\$100.00
Retail Wine	\$100.00
Retail Beer	\$100.00
Mixed Beverage Initial	\$100.00
Mixed Beverage Renewal	\$100.00
Mixed Beverage/Caterer	\$100.00
Combination	
On Premises Beer and Wine	\$100.00
Initial	
On Premises Beer and Wine	\$100.00
Renewal	
Bottle Club Initial	\$100.00
Bottle Club Renewal	\$100.00
Caterer	\$100.00
Caterer Renewal	\$100.00
Annual Special Event	\$55.00
Quarterly Special Event	\$55.00
Hotel Beverage Initial	\$100.00
Hotel Beverage Renewal	\$100.00
Charitable Auction	\$1.00
Charitable Alcoholic	\$55.00
Beverage	
Annual Public Event	\$100.00
One-time Public Event	\$100.00

Such tax rate shall only be effective upon initiation or renewal of the license, as applicable, and no refund shall be made for any prior occupation tax paid which was higher than as established by

this section.

Section 3-103 PAYMENT REQUIRED; PENALTY

A. Payment; Provide Copy of State License: Any state licensee or interim licensee listed in Section 3-103 of this code that has a principal place of business in Cherokee, Oklahoma, shall pay the tax therefor at the office of the city clerk on or before the date upon which he enters upon such occupation. Said licensee or interim licensee shall provide a copy of his current state license or interim license before payment of an occupation tax will be accepted.

B. Term; Prorating Fee: The tax levied under this article shall be for one year, expiring on the date upon which the licensee's state license expires. If paid during the year, the fee shall be prorated on a monthly basis. If paid before the fifteenth day of any month, the tax shall be on the basis as of the first day of said month and if paid after the fifteenth day of any month, the tax shall be on the basis of the last day of the month.

C. Violation: Any person who engages in any of the occupations taxed by this article without paying said occupation tax imposed therefor, or without paying said occupation tax imposed therefor in advance of such operation, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a maximum fine of five hundred dollars (\$500.00) plus costs, fees and state assessments.

Section 3-104 ANNUAL REPORT.

The city clerk shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of license subject to the occupation tax and the amount of money collected from said tax.

Section 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION

A. Filing of Application; Fee: Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city, required by the ABLE Commission shall apply at the office of the city clerk by:

1. Filing a written application on forms prescribed by that office; and

2. Paying a verification and certification fee in an amount as provided by Section 3-106 at the time of filing.

B. Investigation of Premises: Upon receipt of an application

for a certificate of compliance, the city clerk shall cause an investigation to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building and other safety codes applicable to it.

c. Time Limit for Acting on Application: The city clerk shall act on all such applications within twenty (20) days of receipt thereof.

Section 3-106 ISSUANCE OF CERTIFICATES

A. Certificate of Zoning: Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE commission.

B. Certificate of Compliance: Upon finding that the premises of an applicant for a certificate is in compliance with all applicable fire, safety and health codes, a certificate of compliance shall be issued to the ABLE commission.

C. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city, required by ABLE Commission, shall pay a verification and certification fee in the amount of fifty dollars (\$50.00) at the time of filing.

Section 3-107 through Section 3-109 Reserved

ARTICLE 2

ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

Section 3-201 DISPLAY LICENSE

Any person required to possess a state license/permit for sale or distribution of beer, wine, mixed beverages, and any other classification of alcohol beverage now in existence or which may be created by the legislature in the future, is required to have, possess and display, in the same location as their state license/permit, a city occupation tax permit for distribution or sale of the same product classification with the City of Cherokee.

Section 3-202 DRINKING IN PUBLIC.

It is unlawful for any person to drink any alcoholic beverage, to include beer and wine (hereinafter "alcoholic beverages") which such person is upon any public street, alley, or other public highway, or in any public building or other public place within the city. This Section shall not prohibit a person who is of age from drinking

such beverage in a place licensed to sell it for consumption on the premises or any person who is of age who is consuming any alcoholic beverage at any special event from an authorized seller, which special event is authorized in writing by the Mayor or Mayor Pro Tem and the City Manager. The specific site wherein alcoholic beverages shall be permitted to be consumed shall be plainly and clearly marked with signage warning the public that no consumption is permitted outside the area completely encircled with appropriate barriers and any person who shall consume alcoholic beverages outside the designated barrier or who shall consumer alcoholic beverages from any source other than an authorized seller and not in an otherwise authorized location shall be guilty of an offense of Section 3-202.

Section 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.

A. Any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by the Oklahoma Alcoholic Beverage Control Act, intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxication substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he shall be guilty of an offense.

SECTION 3-204 MINORS AND ALCOHOLIC BEVERAGES.

It is unlawful for any person under the age of twenty-one (21) years to be in possession of any alcoholic beverage while such person is upon any public street, road or highway or in any public place within the city limits or to consume or possess with the intent to consume any alcoholic beverage.

Section 3-205 POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES
PROHIBITED IN OTHER LOCATIONS WITHOUT PERMISSION.

It shall be unlawful for any person within the city limits, to consume or to have in his or her possession an open container of any alcoholic beverage upon private property belonging to any person other than the individual in possession or consuming such alcoholic beverage, without said person first obtaining the permission of the owner or person in lawful possession of said property.

Section 3-206 PERMITTING OR ALLOWING GATHERINGS WHERE MINORS ARE
CONSUMING ALCOHOLIC BEVERAGES

A. Definitions. For purposes of Section 3-206, the following definitions shall apply:

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

"Alcoholic Beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent ($\frac{1}{2}$ of 1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Control or Controlling" means any form of dominion including ownership, tenancy or other possessory right however temporary.

"Gathering" is party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

"Legal Guardian" means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

"Minor" means any person under twenty-one years of age.

"Parent" means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

"Premises" means any hotel or motel room, home, yard, apartment, condominium, or other dwelling unit, or a hall or meeting room, park or public place whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for a party

or other social function, and whether owned, leased, rented, or used with or without compensation.

"Response costs" are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such responses; (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to the enforcement of this section.

B. Consumption of Alcoholic Beverages by Minor in Public Place, Place Open to Public, or Place not open to Public. Except as permitted by state law, it is unlawful for any minor to:

1. Consume at any public place, or any place open to the public, an alcoholic beverage; or

2. Consume at any place not open to the public any alcoholic beverages, unless in connection with the consumption of the alcoholic beverage, that minor is being supervised by his or her parent or legal guardian.

C. Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited.

1. In General

- a. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

b. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows that the minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage or failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection C.1.a of this section.

2. This Section shall not, apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian.

3. Nothing in this section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use of alcohol to immediate family members within the supervision of parents and guardians. However, if a minor leaves such a family gathering intoxicated and is found in public then said providers of alcohol beverages will be held responsible in the same manner as a non-family gathering.

4. Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcoholic beverages. However, if a minor leaves such a religious gathering intoxicated and is found to be in public then said providers of alcohol beverages will be held responsible in the same manner as a nonreligious gathering.

5. This section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.

6. Reservation of Legal Options. Violation of this section may be prosecuted by the City criminally, civilly, and/or administratively as provided by this code. The City may seek administrative fees and response costs associated with enforcement of this section through all remedies or procedures provided through all remedies or procedures provided by statute, ordinance, or law. This section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this section, nor shall they limit the City's ability to initiate, and prosecute any criminal offense arising out of the same circumstances necessitating the application of this section.

7. Local Authority

This Section shall not apply where prohibited or preempted by state or federal law.

Section 3-207 Location of Retail Package Store, Mixed Beverage Establishments, Beer or Wine Establishments or Bottle Clubs.

A. Location Near School Or Church: It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club, which has been licensed by the alcoholic beverage laws enforcement (ABLE) commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, to be located within three hundred feet (300') of any public or private school or church property primarily and regularly used for worship services and religious activities

B. Measuring Distance: The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, retail package store.

C. Exceptions:

1. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, bottle clubs, which have been licensed to sell alcoholic beverages for on premises consumption, or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal, the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed.

2. If any school or church shall be established within three hundred feet (300') of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days.

3. Change in Ownership: When any mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section which has a license to sell alcoholic beverages for on premises consumption, or retail package

store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

Section 3-208 TRANSPORTING OPEN CONTAINERS OF ALCOHOLIC BEVERAGES

A. Except as provided in subsection B of this section, it shall be unlawful for any operator to knowingly transport or for any passenger to possess in any moving vehicle upon a public highway, street or alley any alcoholic beverage, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of an offense and shall pay the fine as provided in the schedule of fines and bonds.

B. The provisions of subsection A of this section shall not apply to the passenger area of buses and limousines; however, it shall be unlawful for the driver of the bus or limousine to consume or have in the driver's immediate possession any intoxicating beverage or low-point beer.

C. As used in this section:

1. "Bus" means a vehicle as defined in Section 1-105 of Title 47 of the Oklahoma Statutes chartered for transportation of persons for hire. It shall not mean a school bus, as defined by Section 1-160 of Title 47 of the Oklahoma Statutes, transporting children or a vehicle operated pursuant to a franchise with a city or town operating over a regularly scheduled route; and

2. "Limousine" means a chauffeur-driven motor vehicle, other than a bus or taxicab, as defined by Section 1-174 of Title 47 of the Oklahoma Statutes, designed and used for transportation of persons for persons for compensation.

Section 3-209 MUNICIPALITY MAY INITIATE LICENSE SUSPENSION.

The City, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of

business in the City, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission. The complaint shall set forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. The hearing shall be held within the time limits and in the manner prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the City shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. The City shall not be required to give bond on appeal.

Section 3-210 PROHIBITED ACTS

No person shall:

1. Knowingly sell, deliver or furnish alcoholic beverages to any person under twenty-one (21) years of age;
2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
3. Open a retail container or consume alcoholic beverages on the premises of a package store, grocery store, convenience store or drug store, unless otherwise permitted by law;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;
5. Receive, possess or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Knowingly transport into, within or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying that alcoholic beverages are being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older, when entering Oklahoma from temporary active assignment outside the contiguous United States;

7. Consume spirits in public except on the premises of a licensee of the ABLE Commission who is authorized to sell or serve spirits by the individual drink, or be intoxicated in a public place, except as otherwise permitted by this municipal code.

8. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by a law enforcement officer or an employee of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county or municipal officer or employee of the ABLE Commission;

9. Knowingly and willfully permit any individual under twenty-one (21) years of age who is an invitee to the person's residence, any building, structure or room owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage.

10. Any person selling or keeping a mixed beverage establishment, package store, bottle club or other ABLE licensed establishment open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act, and any person selling or permitting the sale of alcoholic beverages at a grocery store, convenience store or drug store during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be guilty of an offense.

11. No minor shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within the City. No person shall employ or assist or aid in causing the employment of any minor at any place within the City in the selling, manufacture, distribution or other handling of alcoholic beverages. No minor shall be permitted to remain within or to loiter about the premises of a retail alcoholic beverage store. Violation of this provision shall subject the owner or proprietor, as well as the underage person, to prosecution.

12. No person within this City shall drink intoxicating liquor or alcoholic beverage in any public place, nor shall any person be intoxicated in a public place within this City, nor shall any owner, operator or manager of any business or public place to which the public is generally invited allow an intoxicated person to remain in or upon the premises.

13. No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the City limits of the City to any person who is a minor. Neither shall any minor misrepresent his age verbally nor in writing, or present false documentation of age or otherwise for the purpose of inducing any other person to sell him alcoholic beverages.

CHAPTER 4: ANIMALS

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CHAPTER 4: ANIMALS

ARTICLE 1

DIVISION 1

GENERAL PROVISIONS

Section 4-101 DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings prescribed in this Section except in those cases where the context clearly indicates a different meaning:

1. "Animal" means any and all types of animals, domesticated and wild, and including but not limited to any horse, mule, donkey, pony, cow, sheep, goat, hog, rabbit, dog, cat, chicken, goose, duck, turkey, or other animal, including fowl;

2. "At large" means off the premises of the owner or keeper and neither enclosed within a building, fence or other enclosure of sufficient strength and construction to restrain and keep the animal within the building, fence or other enclosure, nor securely restrained and controlled by a person by a leash or harness with handhold;

3. "Confined on the premises" means that condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls, fences, rope, chain, leash or other device of such strength and size as to physically prevent the animal from leaving the premises and to physically prevent the animal from causing physical injury to persons or other animals which are off the premises upon which the confined animal is located;

4. "Dangerous animal" means any animal that:

a. has inflicted severe injury on a human being without provocation on public or private property,

b. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control officer in writing and the animal thereafter aggressively bites, attacks, or endangers the safety of humans, or

c. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control officer in writing and the animal thereafter kills or severely injures a domestic animal.

Animals shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal or was committing or attempting to commit a crime. Dangerous animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their duty;

5. "Enclosure" means, while on the property of the owner, secure confinement indoors or in a securely enclosed and locked pen or structure, with at least 150 square feet of space for each animal kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping;

6. "Health officer" means the director of the county health department or his authorized agent and shall also include the city animal control officer;

7. "Keeper" means any person, family, firm or corporation owning or actually keeping, having, using or maintaining any of the animals herein referred to;

8. "Large animals" means horses, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature;

9. "Menacing fashion" means that an animal would cause any person observing the animal to reasonably believe that the animal will cause physical injury to persons or other animals;

10. "Neuter" means to render a male dog or cat unable to reproduce;

11. "Nuisance" means the conduct or behavior of any small or large animal, cat or dog which molests persons passing by or passing vehicles; attacks other animals; damages private or public property; barks, whines, howls, crows or makes other noises in an

excessive, continuous or menacing fashion which annoys the comfort, repose, health or safety of the people in the community; unconfined in season; or a dangerous animal not confined as required by this chapter;

12. "Owner" or "keeper" means any person, firm or corporation owning, controlling, harboring or keeping an animal. The occupant of any premises on which a domesticated or tamed animal remains, or to which it customarily returns, for a period of ten (10) days or more, shall be deemed to be harboring or keeping the animal;

13. "Permit" includes but is not limited to the failure to take adequate precautions to prevent an animal from being at large; and

14. "Potentially dangerous animal" means any animal that when unprovoked:

a. inflicts a bite on a human either on public or private property, or

b. kills or severely injures a domestic animal either on public or private property, or

c. chases or approaches a person upon any public or private property (not under the ownership or control of the owner or keeper of the potentially dangerous animal) in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or otherwise to threaten the safety of humans or domestic animals.

15. "Provoke" or "provocation" means, with respect to an attack by an animal, that the animal was hit, kicked or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person;

16. "Restraint" means that an animal is controlled by leash or tether, either of which shall not exceed six (6) feet in length, by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or parked on the street, or confined within the property limits of its owner or keeper;

17. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic

surgery;

18. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;

19. "Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian;

20. "Without provocation" means that an animal was not teased, tormented or abused; and also means where the animal was not protecting its owner or owner's property from criminal activity by a perpetrator of a crime.

B. All other words or phrases used herein shall be defined and interpreted according to their common usage.

State Law Reference: Regulation of animals, city powers, 11 O.S. Section 22-115.

Section 4-102 ANIMALS RUNNING AT LARGE PROHIBITED

The owner or keeper of any fowl or any animal shall keep such animal under restraint at all times and shall not permit such animal to be at large.

Section 4-103 TURNING ANIMALS AT LARGE UNLAWFUL

It is unlawful for any person to open any enclosure in which any animal is confined as required by ordinance so as to turn the animal at large, or in any manner to turn the animal at large.

Section 4-104 LIVESTOCK

A. It shall be unlawful for any person, firm, corporation, or entity or keep or maintain within the City of Cherokee any pigs or hogs, and any pen, building or enclosure in which there shall be kept any pigs or hogs. provided, however that this ordinance shall not prohibit the keeping of pigs or hogs in any part of the City of Cherokee, Oklahoma west of the right of way of the Kansas City, Mexico, and Orient Railroad and North of Adams Street, formerly seventh street; or that part of the City north of Adams street, formerly seventh street, and east of the Railroad right of way of the Atchison, Topeka and Santa Fe Railroad Company; or that part of

the City east of Iowa Avenue.

B. Every stable, building, yard, lot, pin or place wherein any livestock are kept and permitted to be, shall be constructed of such material and in such a manner that it can be kept clean and sanitary at all times. Any yard, lot, pin or place used for livestock shall have a permanent fence of sufficient size and strength to contain the livestock on the premises at all times.

C. The stable, building, yard or lot shall be cleared of manure periodically to prevent it from becoming a nuisance or public health hazard.

D. A "nuisance" for purposes of this section is defined as an act or omission that annoys, injures or endangers the comfort, repose, health or safety of others~ or offends decency.

E. A "public health hazard" for purposes of this section is defined as the result of an act or omission which become detrimental to the health, benefit, safety and welfare of the public or community.

Section 4-105 ANIMALS WHICH DISTURB PROHIBITED, CONSTITUTE
NUISANCE.

A. The following conditions are hereby declared to be a nuisance:

1. Any dog or other animal which, by barking, howling or otherwise, disturbs the peace and quiet of any person;

2. Any dog or other animal, which goes into any garbage can or other waste vessel, or turns the same over or scatters the contents of the same on the ground; and

3. Any dog or other animal which chases cars, motorcycles, bicycles or any other motor vehicle or intimidate joggers, pedestrians or children.

B. Any dog or other animal alleged to be a nuisance, as defined in this Section, may be proceeded against in the municipal court after a complaint has been duly filed therein by any person having knowledge thereof, and if the court shall find that such dog or other animal is a nuisance, then the court may order the owner

or person in possession to prevent and abate such nuisance, or the court may order such dog or animal impounded and the owner or person in possession may have the dog or other animal returned upon paying all costs of impounding and giving good and sufficient bond, in the sum as set by the city, conditioned that he will prevent and abate such nuisance. Thirty (30) days thereafter, such owner or person in possession may present to the court evidence that the nuisance has been abated and prevented and the court may, upon such hearing, order the bond returned.

Cross Reference: Nuisances generally, Sections 8-301 et seq.

Section 4-106 BUILDINGS FOR ANIMALS, CONSTRUCTION AND CONDITIONS.

A. Every building or structure wherein any animal is kept within the city shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

B. Every such building housing any livestock or fur-bearing animals, including but not limited to any horse, mule, donkey, cow, goat or sheep, if located within two hundred (200) feet of any apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious, or hospital purposes or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept, shall be provided with a watertight and fly-tight receptacle for manure, of such size as to hold all accumulations of manure. The receptacle shall be emptied sufficiently often and in such manner as to prevent it from being or becoming a nuisance and shall be kept covered at all times except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in the receptacle.

Section 4-107 INSPECTIONS.

The animal control officer, the health officer or any police officer, upon complaint of any person, shall inspect any structure or place where an animal is kept, and may do so on his own initiative. He may issue any such reasonable order as he may deem necessary to the owner of the animal to cause the animal to be kept as provided in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the municipal judge against any person for violation of any provision of this chapter or of any such reasonable order, but this procedure shall not

abridge the right of others to make such complaint.

DIVISION 2

DOG AND CAT VACCINATION, TAGS AND TAX

Section 4-120 DOGS AND CATS TO BE VACCINATED.

The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian at least once every twelve (12) months, expiring on the first day of May thereof, or, in case of a pup or kitten, before it is six (6) months old. The person vaccinating the dog or cat shall furnish a certificate or statement of vaccination.

Section 4-121 DOG AND CAT REGISTRATION, TAG.

A. A fee in such sum as set by the City Commission by motion or resolution for every dog or cat more than six (6) months of age is hereby levied upon the owner of any such dog or cat kept or harbored within the city.

B. The regulatory fee levied in this Section shall not apply to a dog or cat only temporarily brought and kept within the city, nor to a dog or cat brought within the city to participate in a dog or cat show, nor to a "seeing eye" dog when such dog is actually being used by a blind person to aid him in going from place to place, nor to dogs or cats being kept in pet shops for sale.

C. The owner shall pay the fee levied to the city for every calendar year within thirty (30) days after acquiring or bringing the dog or cat into the city. The license fee is due and payable on the first day of January of each year and shall expire on December 31 of each year.

D. The person offering the fee shall present to the city the certificate of a veterinarian or other person legally authorized to immunize dogs or cats, showing that the dog or cat has been immunized against rabies and with such rabies immunization effective through the licensing period prior to issuance of the license.

E. The owner of the dog or cat shall, at the time of paying the fee, register the dog or cat by giving the name and address of the owner, the name, breed, color and sex of the dog or cat, and

such other reasonable information as the city may request.

F. Upon issuing the tag as provided for in Subsection E of this Section, a veterinarian shall collect the fee as set forth in Subsection A of this Section. On the first day of each month the veterinarian shall submit a list of all tags issued for the prior month to the City Clerk, along with a payment to the City, as set forth by the City Commission, for each tag issued. Said list shall include the tag number, tag expiration date, name and address of the animal owner, breed, color, and sex of the dog or cat.

G. The city thereupon shall deliver an original receipt to the owner and also an appropriate tag to him for the dog or cat. The tag shall constitute a license for the dog or cat.

Section 4-122 TAG TO BE PLACED ON COLLAR; LOST TAGS.

A. The owner shall cause the tag received from the veterinarian for the rabies vaccination to be affixed to the collar of the dog or cat so that the tag can easily be seen by officers of the city. The owner shall ensure that the tag is worn by the dog or cat at all times.

B. In case the tag is lost before the end of the year for which it was issued, the owner may secure another for the dog or cat by applying to the veterinarian, presenting the original receipt, and paying a fee as set by the veterinarian.

SECTION 4-123 SUMMONS AND COMPLAINT.

A. Any person who witnesses or has personal knowledge that an act or acts made unlawful by this article has been committed may sign a complaint against the alleged violator.

B. Any police officer, animal control officer, or code enforcement officer who is employed by the city is authorized to issue a summons and complaint when the officer personally observes a violation of this article.

C. The complainant must provide a sworn complaint to the officer receiving the complaint containing the following information:

1. Name, address and telephone number of the complainant and

other witnesses to the incident;

2. Date, time and location of the incident;

3. Description of the animal;

4. Name, address and telephone number (if known) of the animal owner;

5. A statement that the animal attacked the complainant or some other person or animal as witnessed by the complainant, or such facts as warrant a finding that the animal is dangerous or potentially dangerous; and

6. other facts and circumstances of the incident.

Section 4-124 HEARING.

The municipal judge, in addition to any hearings which may be required on criminal charges, shall hold a hearing within ten (10) days of the date of impoundment to determine if the animal is dangerous as defined by this code. The hearing may be held in conjunction with any criminal proceedings if so ordered by the judge, but in no event shall this delay the hearing or determination of dangerousness.

Section 4-125 DETERMINATION.

A. The municipal judge shall be empowered to make one of the following determinations as a result of the hearing.

1. That the animal is not dangerous, in which event the animal control officer shall cause the animal to be surrendered to the owner of the animal, upon payment by the owner of the expenses outlined in this article;

2. That the animal is dangerous and should be destroyed.

3. That the animal is dangerous or potentially dangerous but that for good cause shown, the animal should not be destroyed, in which event the judge shall order all of the following:

a. A proper enclosure to confine the animal and the posting of the premises with a clearly visible warning sign that

there is a dangerous or potentially dangerous animal on the property. In addition, the owner shall conspicuously display a sign with a warning symbol on the premises and on the enclosure that informs children of the presence of a dangerous animal and at a minimum states in capital bold lettering" "BEWARE OF DANGEROUS ANIMAL".

- b. A policy of liability insurance, such as homeowner's insurance, or surety bond, issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of not less than One Hundred Thousand Dollars (\$100,000.00) insuring the owner for any personal injuries inflicted by the dangerous or potentially dangerous animal. A copy of the binder showing such insurance coverage is in full force and effect shall be filed with the City Clerk and no change, amendment or cancellation shall occur to such policy without the City receiving at least ten (10) days prior written notice.
- c. Payment of a Ten Dollars (\$10.00) per year registration fee to the City.

B. It is unlawful for an owner of a dangerous or potentially dangerous animal to permit the animal to be outside the proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash and under physical restraining of a responsible person over sixteen (16) years of age. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

C. It is unlawful for an owner to have a dangerous or potentially dangerous dog in this City without complying with the following court ordered requirements:

- 1. The owner does not secure the required liability insurance coverage;
- 2. The animal is not maintained in the proper enclosure; or
- 3. The animal is outside of the dwelling of the owner, or outside the proper enclosure and not under physical restraint of the responsible person. Any such fine, at the discretion of the court, may be offset by payments made by the owner to any victim of

an attack by the animal. However, insurance payments may not be considered as an offset.

4. The animal is not registered or the annual fee has not been paid to the City.

5. An owner whose animal is adjudged to be a dangerous or potentially dangerous at the hearing and sentence is imposed by the judge pursuant to this section, upon written demand, may appeal the judge's decision within ten(10) days to the Noble District Court in the same manner as other appeals from actions of the municipal court.

Any dangerous or potentially dangerous animal not in compliance with any court ordered requirement shall be immediately confiscated by the animal control officer.

6. Any owner or keeper of a dangerous or potentially dangerous animal who allows an animal to be in violation of Section 4-102 of this code (Animal Running at Large Prohibited) shall be guilty of an offense, and upon conviction, shall be fined as provided in this ordinance.

7. Any owner or keeper of a dangerous or potentially dangerous animal who violates Section 4-120 of the code (Dogs and Cats to Be Vaccinated) shall be guilty of an offense, and upon conviction, shall be fined as provided in this ordinance.

8. The Municipal Judge shall make determinations regarding whether an animal is deemed dangerous or potentially dangerous and all other related orders to protect the health, safety and welfare of the public.

Cross Reference: Municipal court, Section 6-101 of this code and Section 4-150 on keeping vicious animals.

DIVISION 3

RESERVED

DIVISION 4

CRUELTY TO ANIMALS

Section 4-140 CRUELTY TO ANIMALS.

A. It is unlawful for any person willfully and maliciously to pour on, or apply to an animal, any drug or other thing which inflicts pain on the animal; or knowingly to treat an animal in a cruel or inhumane manner; or knowingly to neglect an animal belonging to him or in his custody in a cruel or inhumane manner.

B. The premises on or in which any animals are kept shall be subject to inspection by the health officer or any of his representatives, at any reasonable hour of the day, for the purpose of enforcing this chapter.

C. Any police officer or animal control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and take possession of such animal when, in his opinion, it requires humane treatment.

State Law Reference: Cruelty to animals, 21 O.S. Section 168.

Section 4-141 POISONING ANIMALS.

It is unlawful for a person willfully to poison any dog or other animal except a noxious, non-domesticated animal or knowingly to expose poison so that the same may be taken by such an animal.

Section 4-142 ENCOURAGING ANIMALS TO FIGHT.

It is unlawful or any person to instigate or encourage a fight between animals; or to encourage one animal to attack, pursue or annoy another animal except a noxious, non-domesticated animal or to keep a house, pit or other place used for fights between animals.

DIVISION 5

WILD, EXOTIC OR DANGEROUS ANIMALS

Section 4-150 KEEPING OF WILD, EXOTIC OR DANGEROUS ANIMALS.

A. For the purpose of this Section, a wild, exotic or dangerous animal means an animal of the larger variety which is usually not a domestic animal and which can normally be found in the wild state, with or without mean or vicious propensities, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, and all forms of poisonous or large snakes or reptiles, including those considered dangerous such as boas and pythons, lynxes, raccoons, skunks, monkeys, and other like animals.

B. It is unlawful to keep any wild and dangerous animal within the city limits; however, such animals may be kept for temporary periods of time for exhibition purposes only by circuses, zoos, and educational institutions. The term "temporary periods of time" as used in this subsection shall be defined as, and shall be limited to, a period of time not to exceed one week per year per applicant.

C. Applicants for a permit or license shall file with the city clerk in duplicate a sworn application in writing, on a form to be furnished by the clerk, which shall give the following information:

1. Full name, description, birth date and social security number of each individual applicant;
2. Address, both local and elsewhere;
3. Nature of business or operation;
4. If employed by another, the name and address of applicant's employer, together with a brief description or credentials showing the exact relationship;
5. Length of time for which the right to do business or operate is desired;
6. If applicant is a corporation, partnership, limited

partnership, or other business entity other than a sole proprietor, doing business without a fictitious name, applicant shall, in addition to the other information required hereby, provide the names of all shareholders, officers, and directors, of a corporation, or the names of all partners or other individuals or entities in partnership or association, if a business entity, other than a corporation; and

7. A statement as to whether or not the applicant or any person as specified in Paragraph 6 above, has or have been convicted of a felony, the nature of the offense, and the punishment or penalty assessed therefor.

D. A permit or license fee shall be required to be paid as of the time the application is submitted for the permit or license.

DIVISION 6

ZONING ORDINANCE TO PREVAIL

Section 4-160 ZONING ORDINANCE TO PREVAIL.

In case of conflict between this chapter and the present or any future zoning ordinance, the provisions of the zoning ordinance shall prevail and supersede the provisions of this chapter.

Cross Reference: Zoning ordinance, Section 12-201 et seq. of this code.

DIVISION 7

PROCLAMATION OF RABIES

Section 4-170 DOGS AND CATS CONFINED; WHEN.

A. When the health officer or chief of police determines and certifies that a dog, a cat, or other animal in the city or within five (5) miles of the city is or was infected with rabies and that an epidemic of rabies threatens the city, the City Commission, by resolution, may order all dogs to be confined, and if deemed desirable, all cats to be confined, during a period of time to be determined by the City Commission. Such resolution or an adequate notice of its passage shall be published in a newspaper of general circulation within the city and shall go into effect on the day

following such publication unless the resolution prescribes a later time.

B. While such resolution is in effect, it is unlawful or any owner to permit a dog or cat to be at large in violation of such resolution, or for any dog or cat to be at large in violation thereof.

Section 4-171 QUARANTINE OF ANIMALS FOR OBSERVATION.

A. The identity and address of the owner of any animal that bites a person shall be promptly furnished to the animal control officer and the county health department. The animal, regardless of its immunization status, shall be securely quarantined at a veterinary hospital of the owner's choice at the owner's expense. The animal shall be observed by a licensed veterinarian for a period of ten (10) days and may not be released until such reasonable determination has been made that the animal is not infected with rabies unless the bite was a severe bite by an unimmunized animal. In circumstances of a severe bite (bite on the head, face, neck or upper extremities; or deep laceration; or multiple bite wounds) by an unimmunized animal, the biting animal should be humanely killed immediately, without damaging the head, and the head should be humanely shipped, under refrigeration, for examination at the Oklahoma State Department of Health. If the animal is not immediately available for testing, the individuals exposed should consult with their physicians concerning the need for immediate initiation for rabies prophylaxis. In case of animals whose ownership is unknown, such quarantine shall be at the city animal shelter. If an owner becomes known, the animal may be reclaimed by the owner if adjudged free of rabies, and such owner shall then pay any related charges for confinement. Signs of rabies in wild animals cannot be interpreted reliably; therefore, any wild animal that exposes a person should be killed at once (without unnecessary damage to the head) and the head submitted for examination for evidence of rabies.

B. It is the duty of every physician, veterinarian or other practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

C. It is the duty of every licensed veterinarian to report

to the animal control officer his diagnosis of any animal observed by him to be a rabid suspect.

Section 4-172 SECURING SUPPORT INFORMATION ON DIAGNOSED ANIMALS.

When an animal under quarantine has been diagnosed as being rabid or is suspected of having rabies by a licensed veterinarian and dies while under such observation, the animal control officer, veterinarian, the city health officer, or other designated emissary shall immediately send the necessary part of such animal to the state health department for pathological examination and shall notify the proper public health officer of any reports of human contact.

Section 4-173 RABIES CRISIS DECLARATION.

When a report gives a suspected or a positive diagnosis of rabies, or when the city, county or state health officials feel that a rabies crisis may be imminent, the health officials may recommend to the Mayor citywide quarantine, and upon the invoking of such quarantine by the Mayor no animal shall be taken into the streets or permitted to be in the streets, except for short periods of exercise under leash and control of a competent adult. During the quarantine, no animals may be taken or removed from the city without written permission of the animal control officer. This declaration must be made by notice in a general circulated newspaper of the community and will last as long as health officials determine the situation requires such action.

Section 4-174 DESTRUCTION OF ANIMALS UNDER CRISIS PERIOD.

A. During the period of rabies quarantine as mentioned every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed, or at the owner's expense and option, shall be treated for a rabies infection by a licensed veterinarian, or held under six (6) month quarantine by the owner in the same manner as a female in season. The period of quarantine may be extended from time to time.

B. In the event there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended for an additional six months.

C. No person shall kill or cause to be killed any rabid

animals, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human, except as herein provided, nor to remove same from the city limits without written permission from the health officer of the city or the animal control officer.

D. The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal control officer.

E. The animal control officer shall direct the disposition of any animal found to be infected with rabies.

Section 4-175 SURRENDER OF ANIMALS UNDER SUSPECT.

No person shall remove from the city any animal suspected of having been exposed to rabies, or any animal which has bitten a human, except as herein provided. The carcass of any dead animal exposed to rabies shall be surrendered to the animal control officer upon demand, and the animal control officer shall direct disposition of the animal. No person shall refuse to surrender any animal for quarantine or destruction when such demand is lawfully made by the animal control officer.

ARTICLE 2

DIVISION 1. GENERALLY

Section 4-200 PURPOSE AND DEFINITIONS

A. Purpose. The intent of this Article is to prevent and reduce the transmission of diseases from animals, particularly, dogs and cats, to preserve the peace, and to promote the health, safety and welfare of the citizens of the City by establishing rules and regulations over all kennel operations within the City. All Federal, State and municipal facilities and license veterinarians shall be exempt from the provisions of this Article.

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

1. Primary enclosures are those areas in which an animal normally rests or sleeps and which allow the exercise of normal postural movement.

2. Puppy or kitten means an immature dog or cat under the age of six months.

3. Run is a large area designed to allow an animal to move about and exercise freely.

4. Secondary enclosure means the room or structure which houses or contains primary enclosures.

Section 4-200A RESERVED

Section 4-200B FAILURE TO PROVIDE HUMANE CARE AND TREATMENT OF ANIMALS IS PROHIBITED

A. Prohibited Conduct. It shall be unlawful for any person owning an animal to fail to provide said animal with humane care and treatment in accordance with the standards provided in this section.

B. Standards of Human Care and Treatment. The following standards of humane care and treatment are established for all animals within the City:

1. Food Requirements. Food shall be free from contamination and of sufficient quantity and nutritive value to maintain an animal in good health. An animal shall be fed at least one per day except as dictated by hibernation, veterinary treatment, normal fasts or other professional accepted practices. All food receptacles shall be kept clean and sanitary.

2. Water Requirement. Safe clean water shall be provided as often as necessary for the health and comfort of each animal. Frequency of watering shall consider age, species, condition, size and type of animal. All water shall be provided in sturdy, stable receptacles of adequate size for the animal and shall be kept clean and sanitary.

3. Space Requirements. Enclosures or shelters for animals shall be constructed and maintained to provide sufficient space for each animal to make normal postural and social adjustments and to provide each animal with adequate freedom of movement to maintain good physical condition.

4. Outdoor Shelter Requirements. Natural or artificial shelters appropriate to the local climate conditions for the particular species of animal shall be provided for all animals kept outdoors or for animals left out of doors during inclement weather. A suitable method of drainage shall be provided to rapidly eliminate excess water. A shelter for a dog or cat shall consist of a moisture proof and wind proof structure of suitable size to accommodate the animal and to allow retention of body heat. It shall be made of durable material and shall be provided with a sufficient quantity of suitable bedding material to provide insulation and protection against cold and dampness and to promote retention of body heat.

5. Sanitation Requirements. All shelters, enclosures, cages and litter boxes shall receive necessary cleaning to remove excrete, waste materials, direct and trash to minimize disease hazards and to reduce odors. Litter in litter boxes and shaving or other materials used in cages

6. Veterinary and other Care Requirements. All animals shall have veterinary and other care to prevent suffering.

C. Leaving an Animal in a Motor Vehicle without adequate ventilation or protection from extreme weather prohibited. It shall be unlawful for any person to leave any animal in any standing or parked vehicle without providing for adequate ventilation nor shall a person allow an animal to be exposed to extreme temperature while confined in a vehicle.

D. Animal Control Officer May Impound Animal and/or Provide

Terms and Conditions for Care.

1. Whenever the Animal Control Officer finds that any animal is without humane care or treatment, such officer may, at the owner's expense, impound the animal for protective care. In the event the sickness or injury of the animal and upon the advice of the Police Chief or his designee, may take appropriate action to relieve pain and suffering, including the option of the immediate humane euthanasia of the animal.

2. The Animal Control Officer may issue a citation to the owner for a violation of this section and/or may specify the terms and condition under which the owner may regain or maintain custody of the animal, which terms and conditions statement shall be signed by the owner. Violation of the terms and conditions by the owner is an offense against the City and shall be cause for the issuance of a citation and may result in the impoundment of the animal.

DIVISION 2

KENNEL LICENSES

Section 4-201 KENNEL LICENSE REQUIRED.

No person shall operate a kennel without a license. The annual cost of a license shall be One Hundred Dollars (\$100.00).

Section 4-202 REVOCATION AND SUSPENSION OF LICENSE.

In addition to any other penalties prescribed by ordinance, the City may revoke or suspend a kennel license for any violation of these regulations pursuant to the provisions of Chapter 5, Article 10 of this code.

DIVISION 3

KENNEL REQUIREMENTS

Section 4-301 SUBMISSION OF KENNEL PLANS AND SPECIFICATIONS.

In addition to any other requirements of this Code, detailed plans and specifications shall be submitted to the City Manager to construct or remodel any kennel. Approval of plans and

specifications must be obtained prior to any construction or remodeling.

Section 4-302 CONTENTS OF PLANS AND SPECIFICATIONS.

Any plans and specifications shall be in compliance with this article and must include descriptions of the proposed ventilation system, plumbing equipment, and finishes of floors, walls, and ceilings.

Section 4-303 SEPARATION OF CERTAIN AREAS.

Animal housing areas must be physically separated from areas in which food and/or drink for human consumption is prepared, served or stored and from any living and/or sleeping areas of kennel personnel.

Section 4-304 PHYSICAL FACILITIES.

A. Interior building surfaces. Interior building surfaces shall be constructed and maintained so that they are impervious to moisture and may be readily cleaned.

B. Electric power. Reliable and adequate electric power shall be provided. Electrical wiring must meet all requirements of Chapter 5 of this Code.

C. Water. Adequate potable water shall be provided. Back flow preventers shall be installed on any threaded faucets.

D. Heating. Indoor housing for pet animals shall be sufficiently heated when necessary to protect pet animals from cold, and to provide for their health and comfort. The ambient temperature shall be made consistent with the requirements of the particular species.

E. Ventilation. Indoor housing of animals shall be adequately ventilated with fresh air to minimize odors and moisture and to provide for the health and comfort of the animals at all times. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85 degrees Fahrenheit or higher.

F. Lighting. Adequate lighting must be provided a minimum

of eight hours per day. Such lighting shall provide a minimum of 25-foot candles of illumination for 30 inches above floor level and must be uniformly distributed. Enclosures must be positioned to protect animals from excessive illumination.

G. Drainage. A suitable method shall be provided to rapidly eliminate excess water from animal housing facilities. If drains are used, they shall be properly constructed and kept in good repair. If closed drainage systems are used, wastewater shall be disposed of by connection to a sanitary sewer or any approved sewage disposal system.

Section 4-305 PRIMARY ENCLOSURE STANDARDS.

A. Generally. All enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain them and to prevent vermin from entering. They shall be constructed and maintained to enable the animals to remain dry and clean and to provide convenient access to clean food and water.

B. Flooring. The floors of the enclosures shall be constructed to prevent injury to animals' feet and legs. Enclosures for dogs and cats may have wire flooring provided, however, that (1) the wire is of adequate gauge to prevent sagging under the weight of the animals and (2) the wire mesh is small enough to prevent their feet from falling through the mesh.

C. Space requirements. Enclosures must be constructed to provide sufficient space to allow each animal to exercise normal postural movements.

D. Additional requirement for cats. A receptacle containing sufficient clean litter shall be provided to contain excreta.

E. Exercise areas. One run must be provided for every 18 primary enclosures. The run must be of sufficient size to allow an animal to break into a run. At least two exercise periods per day of 20 minutes each shall be provided.

Section 4-306 SANITATION.

A. Cleaning of animal enclosures. Animal waste shall be removed from enclosures daily and/or as often as may be necessary to prevent contamination of the animals and to reduce disease

hazards and odors. Cages shall be cleaned as often as may be necessary to maintain sanitary conditions by washing all surfaces with a detergent solution followed by a safe and effective sanitizer. Animals must be removed from the enclosures during the cleaning process and precautions taken to avoid cross contamination.

B. Equipment cleaning. Water and food containers and all other utensils shall be cleaned and sanitized using generally acceptable methods such as the use of heat or chemical sanitizing solution. These containers shall be cleaned and sanitized as often as necessary to maintain sanitary conditions.

C. Waste disposal. Animal and food wastes, bedding, dead animals, debris and other organic wastes must be disposed of in order that vermin infestation, odors, disease hazards and nuisances are minimized.

D. Premises, generally. The kennel premises shall be kept clean, in good repair, and free of trash.

E. Pest control. An effective program for the control of insects, ectoparasites and avian and mammalian pests shall be maintained.

F. Storage of food and supplies. Supplies of food and bedding shall be stored:

1. Off the floor; or
2. In waterproof closed containers and adequately protected against infestation or contamination by vermin.

G. Dead animals. Animals that die at the facility shall be stored and disposed of in a manner that will not cause a disease hazard or nuisance.

Section 4-307 FOOD AND WATER.

A. All animals shall be fed at least once a day and shall be provided potable water at all times except when under special veterinary care. The food and water shall be free from contamination, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and

size of the animal. Refrigeration shall be provided for perishable food.

B. Food and water containers shall be accessible to the animal and located to minimize contamination by excreta. These containers shall be cleaned daily. Self-feeders and self-waterers may be used if cleaned regularly.

Section 4-308 APPLICATION OF REQUIREMENTS TO EXISTING FACILITIES.

Existing properties properly zoned and used as a kennel as herein defined, shall be given until January 1, 2010, to meet the structural standards required by this article.

Section 4-309 INSPECTION OF FACILITIES.

A. All kennels or animal shelters must be inspected by the City Manager prior to the issuance of a license under this article. The City Manager or its designated representatives may make periodic inspections of all facilities licensed under this article.

B. Federal, State and municipal facilities shall be exempt from the provisions of this article.

C. Classification and separation of animals.

1. Restrictions. Animals housed in the same enclosure shall be maintained in compatible groups, with the following additional restrictions:

2. Females. Females in season (estrus) shall not be housed in the same primary enclosure with males, except for breeding purposes.

3. Puppies or kittens. Puppies or kittens shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies.

4. Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals.

5. Boarded animals shall not be housed in the same primary enclosure with those from another household unless the owners have been informed of and consented to that arrangement.

CHAPTER 5: BUILDING REGULATIONS AND CODES

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CHAPTER 5: BUILDING REGULATIONS AND CODES

ARTICLE 1

BUILDING CODE AND REGULATIONS

Section 5-101 INTERNATIONAL BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Building Code Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Building Code for the City of Cherokee, State of Oklahoma, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article.

State Law Reference: Building codes, adoption by cities, 11 O.S. § 14-107; 74 O.S. § 324.8.

Section 5-102 ADDITIONS AND CHANGES TO INTERNATIONAL BUILDING CODE.

The following section of the International Building Code Latest Edition, adopted by the State of Oklahoma, is hereby revised:

1. § 100.1, insert the City of Cherokee, State of Oklahoma.
2. 1612.3, insert the City of Cherokee, State of Oklahoma.

3. 1612.3, insert January 1, 2014.

4. 3410.2, insert January 1, 2014.

Section 5-103 PENALTY.

A person who violates a provision of this code or fails to comply therewith or with any of the requirements thereof, or who erects, constructs, alters, repairs or removes, or has erected, constructed, altered, repaired, or removed a building or structure in violation of a detailed statement of plan submitted and approved thereunder or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be fined any sum as provided in Section 1-108 of this code including costs. Each day upon which a violation continues shall be deemed a separate offense.

Section 5-104 BUILDING OFFICIAL.

The building official of this city shall have the powers and duties prescribed from the "building official" by the city's building code; provided that his powers and duties may be exercised by his authorized representatives under his supervision and control. The term "building inspector", whenever used in the ordinances of the city, means the building official. The terms "electrical inspector" and "plumbing inspector", wherever used in the ordinances of the city, also each refer to and mean the building official, unless a separate electrical inspector or plumbing inspector is appointed by the City Manager.

Section 5-105 FIRE DISTRICT DEFINED.

The fire district of the city is the entire city corporate limits.

Section 5-106 BUILDING PERMIT REQUIRED; FEE.

A. No building or other structure, shall be built, erected, enlarged, or have such building or structure's roof line extended without a building permit as required by the city's building code.

B. A person desiring a building permit shall submit an application therefor to the city clerk. The applicant shall submit with the application such reasonable information as the

clerk may require to enable him to determine whether granting the permit would be in accordance with the requirements of the ordinances of the city.

C. If the application is in accordance with the requirements of the ordinances and laws, the clerk shall issue the permit upon the payment by the applicant of a building permit which may be set by motion or resolution of the City Commission. A current copy of the fee schedule shall be kept in the office of the city clerk.

D. A building permit covers the initial plumbing and electrical installations to be made in connection with the building.

E. If construction or work authorized under a permit is not begun within ninety (90) days after issuance of the permit, the permit is automatically canceled.

Section 5-107 NUMBERING OF BUILDINGS.

A. It is the duty of the city to number all buildings in the manner herein set forth, which numbers shall be maintained in such manner and in good condition by owners and occupants of all buildings situated in the city until otherwise provided by the City Commission.

1. Every building fronting upon any of the streets in the city running east and west, shall be numbered commencing with Boundary Street on the east as the unit or base of enumeration, setting apart one hundred numbers for each block facing the same street and shall be as nearly consecutive as possible, commencing with odd numbers in each block. Commencing at Ash Street as a unit for base of enumeration and numbering north and south from Ash Street, one hundred numbers shall be set apart for each block commencing with even hundreds. All even numbers shall be given to the buildings on the south side and all odd numbers shall be assigned to buildings on the north side of streets running east and west. On all streets running north and south, the odd numbers shall be assigned to buildings on the west side and the even numbers on the east side, provided that one number shall be assigned for each twenty-five (25) feet in business lots and one number shall be assigned for each fifty (50) foot lot in the residence Sections;

2. Each of the figures of every number shall be so marked as to be distinctly and easily read from the street or sidewalk in front of the building and shall be so placed that it will be conspicuous and easily seen; and

3. It is the duty of each and every owner or occupant who owns or occupies any building which has no number on the same as herein provided or who has a number which does not comply with the provisions therein set forth to place or cause to be placed and maintained upon the front of his building, in plain, distinct figures, not less than two and one half (2 ½) inches vertical length, the proper number as required by this Section.

B. It is an offense for any person who after being notified to comply with the provisions of this Section shall fail within ten (10) days from the notice to comply with same and upon conviction shall be punished accordingly. Each day of such failure to comply herewith after the expiration of the time allowed in the notice shall be a separate offense and shall be punished accordingly.

Section 5-109 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Property Maintenance Code Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Code for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Cherokee, Oklahoma

Section 103.5, insert a schedule of fees on file in the office of the City Clerk or contained in the Cherokee Municipal Code, 2014.

Section 304.14, insert from April 1 to September 30

Section 602.3, insert from November 1 through March 31

Section 602.4, insert from November 1 through March 31

Section 5-110 INTERNATIONAL RESIDENTIAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Residential Code, Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Residential Code for the City of Cherokee, State of Oklahoma, for regulating and governing the construction, alteration, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes:

Section R101.1, insert the City of Cherokee, Oklahoma Section

5-111 INTERNATIONAL EXISTING BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Existing Building Code Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Residential Code for the City of Cherokee, State of Oklahoma, for regulating and governing the repair, alteration, change of occupancy, addition

and relocation of existing buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes:

Section 101.1, insert the City of Cherokee, Oklahoma

Section 1201.2, insert January 1, 2014.

Section 5-112 RESIDENTIAL BUILDING CONTRACTOR; REGISTRATION AND INSURANCE REQUIRED; STATE FEE TO BE ASSESSED AND ADMINISTRATIVE FEE CHARGED.

A. Residential Building Contractor; Registration and Insurance Required.

1. No person shall work at the occupation or engage in the business of the construction of residential dwellings within the City, or making repairs thereto, for which a building permit is required, without registering with the City Clerk and securing a residential building contractors' registration. A residential building permit shall be defined for this section as any building permit for a single-family or a duplex residential structure and shall include construction of a new structure, remodel of an existing structure, and the addition to an existing structure. Not included under the definition of a residential building permit are a single-family or a duplex carport, patio cover, storage building, accessory building, pool, or fence.

2. Applicants for registration shall pay an annual, initial registration fee as provided in Chapter 18, Section 5-112.2.

3. At all times that such registration is effective, the residential building contractor shall furnish the city clerk a certificate of insurance from an appropriate insurer providing that contractor with general liability insurance in an amount required by other trade contractors licensed by the Construction Industries Board and workers' compensation insurance, for such

contractor and employees, or a workers' compensation exemption verification document.

4. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the city registration of any residential building contractor for violation of any of the provisions or regulations of the city related to building construction or for any cause specified in the state law or municipal code.

5. All services performed by utility companies operating under a franchise or other agreement or permit, and the employees of such utility companies are hereby exempt from the registration and insurance requirements for work done under the supervision and direction of the utility companies.

6. This section shall not apply to a person or persons performing the construction or remodeling to his, her, or their own existing single-family or duplex structure on their own property, unless the modifications are being performed by and the permit acquired by a general contractor or subcontractor, in which case the general contractor or subcontractor shall meet the requirements set forth in this section.

B. State Fee to Be Assessed and Collected; Administrative Fee. The City shall assess and collect a fee for any building permit and/or renewal of such permit, in addition to other fees charged and collected by the City, in an amount and at such time as directed by the Oklahoma Uniform Building Code Commission. The calculation of such fee shall be made in accordance with the rules and regulations promulgated by the Oklahoma Uniform Building Code Commission. For purpose of such calculation the fee may be charged on any process, oral or written, wherein authorization, approval or registration is required prior to construction even though: 1) the permitting or registration document is not issued at that time; 2) the City refers to the authorization, approval or registration as something other than a "permit"; or 3) the only activities performed by the City are fee-based inspections of the work performed. For purpose of this section each segment of a multi-segment permit shall be considered a separate building permit if the segment meets each of the following conditions: 1) the City requires a separate, stand-alone building permit for the segment work when said work is not performed as part of a multi-segment construction project; 2) the City charges a stand-alone building permit fee for the segment work when said work is not

performed as part of a multi-segment construction project; and 3) the segment work is subject to the requirements of the State Adopted Building Codes. Such fee shall be placed in a city account created for that purpose and such fees shall be monthly remitted by the municipality to the State Treasury for deposit in the Oklahoma Uniform Building Code Commission Revolving Fund. Along with such monthly deposit, the City shall submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding month. In addition to the fee that shall be collected and remitted as provided hereinabove, then City shall charge an additional administrative fee of \$0.50 on each fee collected and reported to the state.

ARTICLE 2

PLUMBING CODE

Section 5-201 INTERNATIONAL PLUMBING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Plumbing Code, Latest Edition, adopted by the State of Oklahoma, including all appendix chapters, together with any annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Plumbing Code of the City of Cherokee, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes as set out in Section 5-202.

Section 5-202 ADDITIONS, INSERTIONS AND CHANGES TO THE INTERNATIONAL PLUMBING CODE

The following sections contained in the International Plumbing Code, Latest Edition, adopted by the State of Oklahoma, are hereby revised:

Section 101.1, insert the City of Cherokee, Oklahoma

Section 106.6.2, insert as provided by resolution of the City or as provided in the Cherokee Municipal Code.

Section 106.6.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Cherokee Municipal Code.

Section 108.5, insert as provided by Section 1-108 of the Cherokee Municipal Code.

Section 305.6.1, insert 18"

Section 904.1, insert 12"

Section 5-203 PLUMBERS; REGISTRATION.

A. The phrases and words "journeyman plumber," "plumber's apprentice," "plumbing contractor," and "plumbing," when used in the ordinances, regulations and other official acts and communications of this city, shall have the meanings respectively prescribed for them by Sections 1001 et seq. of Title 59 of the Oklahoma Statutes, the state plumbing license law, and the city's plumbing code, unless the context clearly indicates a different meaning.

B. No person shall work at the occupation or engage in the business of installing, altering, replacing or repairing any plumbing equipment, fixtures or apparatus within the city without registering with the city clerk and securing a plumbing contractors' registration. The city clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fees.

C. Applicants for certificates of registration, after complying with the laws of the state and with the city code, and after payment of the fee hereinafter specified, shall be registered with the city. The registration shall expire annually, on June 30, but may be renewed from year to year. Plumbing contractors desiring to renew their registration shall furnish the same evidence of compliance with the state licensing laws and the same bond is required as set forth by city code.

D. An applicant for plumbing contractor's registration shall also furnish bond in such sum and such conditions as set by the City Commission.

E. All plumbing registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration paid.

F. The fee for registration shall be as set forth in Ten Dollars (\$10.00).

G. The City Commission, upon notice and adequate opportunity for a public hearing, may revoke the city registration of any plumbing contractor or journeyman plumber for violating any provision of the ordinances or regulations of the city relating to the installation of plumbing or for any other cause specified in the state plumbing license law.

H. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies are hereby exempt from Subsection B for work done under the supervision and direction of the utility companies.

State Law Reference: State plumbing licenses, requirements, 59 O.S. Section 1001 et seq.

Section 5-204 PLUMBING, PERMITS AND INSPECTIONS.

A. No plumbing work shall be undertaken without a permit from the city as provided in the city's plumbing code.

B. The application for such work shall be as required by the city.

C. The permit inspection fee for plumbing shall be as set forth in Chapter 18. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines set forth in the city code.

Section 5-205 PLUMBING INSPECTOR; APPOINTMENT; POWERS AND DUTIES.

A. The plumbing inspector shall be appointed by the City Manager and may hold another position in the city government.

B. The plumbing inspector shall have the powers and duties prescribed for him by the city's plumbing codes.

C. All taps to main sewer or water lines shall be made only under the supervision of a licensed plumber.

ARTICLE 3

ELECTRICAL CODE

Section 5-301 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the state law, Sections 1680 et seq. of Title 59 of the Oklahoma Statutes and the city's electrical code.

State Law Reference: State electrical requirements, licensing by state, 59 O.S. Section 1680 to 1696.

Section 5-302 NATIONAL ELECTRIC CODE AND NATIONAL ELECTRIC SAFETY CODE ADOPTED.

A. National Electric Code Adopted. That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the National Electric Code Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the National Fire Protection Association, be and is hereby adopted as the Electric Code, regulating and governing wiring and safety standards of all property, buildings and structures in the City of Cherokee, State of Oklahoma; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Electric Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

B. National Electric Safety Code Adopted. That a certain document is on file in the Office of the City Clerk of the City of

Cherokee, Oklahoma, being marked and designated as the National Electric Safety Code, ANSI C2, latest edition, its appendices and annual amendments thereof, as published by the Institute of Electrical and Electronics Engineers, Inc., be and is hereby adopted as the City's Electric Safety Code, in addition to the National Electric Code 2011, regulating and governing wiring and safety standards of all property, buildings and structures in the City of Cherokee, State of Oklahoma; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Electric Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

Section 5-303 UNDERWRITERS LABORATORIES, INC.

All electrical equipment installed or used shall be in conformity with the provisions of this chapter, the statutes of the state and the provisions of this chapter, the statutes of the state and any orders, rules and regulations issued by the authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this chapter, by a statute of the state or any orders, rules, or regulations issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards of Underwriters' Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons or to property.

Section 5-304 CITY COMMISSION MAY MAKE SPECIAL RULINGS.

The City Commission of the city, by motion or resolution, shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations. In all cases persons engaged in the installing of electrical equipment and holding an electrical license must be notified by letter of these decisions.

Section 5-305 PERMIT REQUIRED FOR ELECTRICAL INSTALLATIONS; ISSUANCE.

A. It is unlawful for any person to commence any work on electrical installations for light, heat or power or make

extensions to any existing electrical installations without first securing a permit from the city.

B. Applications for electrical permits shall be made to the city; and the applicant shall provide such plans, specifications, and other data as may be reasonably required.

C. The fee for an electrical permit shall be Ten Dollars (\$10.00).

Cross Reference: See also Sections 17-101 et seq. for electrical utility fees.

Section 5-306 INSPECTION FEE.

The permit fee shall cover the cost of inspection. If the electrical inspector is called in to inspect and upon arrival the job is not ready for inspection, a fee as set by the City Commission shall be charged for the call, over and above any permit fee.

Section 5-307 ELECTRICIAN'S REGISTRATION REQUIRED, BOND.

A. It is unlawful for any person to engage in the business, trade or vocation of electrical contractor, journeyman electrician or apprentice electrician or do any electrical work for which an electrical permit is required without a certificate of registration as such secured from the city.

B. The fee for a registration certificate, and any renewal, to be paid to the city clerk, shall be as set by the City Commission.

C. The city clerk shall issue such registration upon presentation of a valid license issued by the state and upon payment of the required fee. All registrations shall expire annually on June 30. After the expiration, an application for a new certificate must be requested and the initial fee paid again.

D. The certificate is not transferable to any other individual or company.

E. Every person receiving a certificate as an electrical contractor shall file with the city clerk a bond in such sum as set by the City Commission, executed with a surety company authorized to do business in the state, in the sum as set by the City Commission. The bond shall be conditioned that the principal will install all electrical wiring, fixtures, appliances, and equipment in accordance with the law and the ordinances and other regulations of the city relating to electrical installations and in a workmanlike manner; that the principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior or non-standard material; and that the city may be fully indemnified and held harmless from any and all costs, expenses or damage resulting from the performance of his work as an electrical contractor or apprentice electrician, as the case may be.

F. All services performed by the city or utility companies operating under franchise agreements, and the employees of such utility company or city, are hereby exempt from Subsection A for work done under the supervision and direction of the utility company or city.

G. After adequate opportunity for a hearing, the City Commission may revoke the certificate of an electrical contractor, apprentice electrician, or a journeyman electrician.

Section 5-308 COMPLIANCE WITH REGULATIONS.

All electrical construction and all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the city limits shall conform to the rules and requirements of the code adopted by this chapter. The electrical inspector shall have the responsibility and authority for making interpretations of the provisions of such code, for deciding upon the approval of equipment, materials and construction and for granting the special permission contemplated in a number of provisions of such code, and the electrical inspector, where necessary, shall follow the code procedure for securing official interpretations of such code. In cases of necessity, the electrical inspector may require larger size wire, more branch circuits and better types of equipment than the minimum which is specified in the National Electrical Code.

Section 5-309 INSPECTION OF WORK; REMOVAL OF DEFECTIVE
INSTALLATIONS.

A. Upon the completion of any work for which a permit has been issued under Section 5-305, it shall be the duty of the permit holder to notify the electrical inspector who shall, as early as possible, inspect the wiring, installation, appliances and apparatus and execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination. No such certificate shall be issued unless such wiring, motors, heating devices, appliances and apparatus are in strict accord with the rules, requirements and spirit of this chapter. No current shall be turned on until such certificate is issued.

B. The amount of fee or charge to be made for such inspections and certificates shall be fixed and determined by the City Commission.

C. Whenever electric wiring, appliances or apparatus are found to be defective or hazardous through improper manufacture or improper or insufficient installation or for any other reason, the electrical inspector shall at once cause the removal of such defect, at the expense of the owner of such wiring, appliance or apparatus.

Section 5-310 DISCONTINUING CURRENT FOR FAILURE TO COMPLY WITH
CHAPTER.

Upon failure to comply with this chapter, the electrical inspector shall have authority, after due notice, to cut off electric current. In an emergency the electrical inspector shall have such authority without notice.

Section 5-311 OFFICE OF ELECTRICAL INSPECTOR.

A. There is created the office of city electrical inspector. Such inspector shall be appointed by the CityManager.

B. It is the duty of the electrical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the city, in the performance of his duties.

ARTICLE 4

MECHANICAL CODE

Section 5-401 INTERNATIONAL MECHANICAL CODE ADOPTED

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Mechanical Code Latest Edition, adopted by the State of Oklahoma, including all appendix chapters, together with any annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Mechanical Code of the City of Cherokee, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes:

Section 101.1, insert the City of Cherokee, Oklahoma.

Section 106.6.2, insert as provided by resolution of the City or as provided in the Cherokee Municipal Code.

Section 106.5.3, insert in first blank 75% and second blank 50%.

Section 108.4, insert as provided by Section 1-108 of the Cherokee Municipal Code.

Section 108.5, insert as provided by Section 1-108 of the Cherokee Municipal Code.

Section 5-402 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the State Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes and the city's mechanical code.

Section 5-403 REGISTRATION REQUIRED.

A. No person shall work at the occupation or engage in the business of installing, altering, replacing or repairing any mechanical equipment, fixtures or apparatus within the city without registering with the city clerk and securing a mechanical contractor's registration. The city clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fee.

B. Applicants for certificates of registration, after complying with the laws of the state and with the city code, and after payment of the fee hereinafter specified, shall be registered by the city. The registration shall expire annually, on June 30, but may be renewed from year to year. Mechanical contractors desiring to renew their registration shall furnish the same evidence of compliance with state licensing laws and the same bond is required as set forth by city code.

C. An applicant for mechanical contractor's registration shall also furnish bond in such sum and such conditions as set by the City Commission.

D. All mechanical registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration must be paid.

E. The fee for registration shall be as set forth by the City Commission by motion or resolution.

F. The City Commission, upon notice and adequate opportunity for a public hearing, may revoke the city registration of any mechanical contractor or journeyman mechanical contractor for violating any provisions of the ordinances or regulations of the city relating to the installation of mechanical or for any other cause specified in the state mechanical license law.

G. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies or city are hereby exempt from Subsection A for work done under the supervision and direction of the utility companies or city.

Section 5-404 MECHANICAL PERMITS AND INSPECTIONS.

A. No mechanical work shall be undertaken without a permit from the city as provided in the city's mechanical code.

B. The application for such work shall be as required by the city.

C. All persons making mechanical installations shall be charged a permit inspection fee as set forth in Chapter 18. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines set forth in city code.

Section 5-405 OFFICE OF MECHANICAL INSPECTOR.

A. There is created the office of city mechanical inspector. Such inspector shall be appointed by the CityManager.

B. It is the duty of the mechanical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the city, in the performance of his duties.

ARTICLE 5

LIQUEFIED PETROLEUM GAS

Section 5-501 CODE ADOPTED.

It is unlawful for any person, firm or corporation to manufacture, fabricate, assemble, install, or repair any system, container, apparatus, or appliance to be used for the transportation, storage, dispensing, or utilization of liquefied petroleum gas, or to transport, handle, or store such gas, unless such person has complied with and complies with all provisions of the law and ordinances relating thereto, and has any license or permit which may be required by state law. The pamphlet, Storage and Handling of Liquefied Petroleum Gases, as contained in Pamphlet No. 58 issued by the National Fire Protection Association, the latest edition thereof, adopted by the Oklahoma

Liquefied Petroleum Gas Board, shall have full force and effect within this city. Any violation of these rules and regulations shall be deemed a violation of the ordinances of the city and shall be punished accordingly.

State Law Reference: State rules, LPG, 52 O.S. Section 420.1 et seq.

Cross Reference: See also Sec. 13-101 et seq. on fire prevention code.

Section 5-502 STANDARDS FOR USE AND INSTALLATION OF LIQUEFIED PETROLEUM GAS EQUIPMENT.

The use and installation of liquefied petroleum gas equipment shall be in conformity with the provision of this chapter, with the statutes of the State of Oklahoma, and with any orders, rules or regulations issued by authority thereof, and with generally recognized standards for safety to persons and property. Where no specific standards are prescribed by this chapter or by state statutes, or by any orders, rules or regulations issued by authority thereof, conformity with the standards of the National Fire Protection Association for the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, as amended, shall be prima facie evidence of conformity with generally recognized standards for safety to persons and property.

Section 5-503 LPG TANKS, PERMIT REQUIRED TO HAVE VEHICLE REPAIRED.

A. Before the owner or operator of any vehicle on which is mounted a tank used in the transportation of any liquefied petroleum gas shall deliver such vehicle, or cause the same to be delivered, to any garage or other establishment for repair, he shall first submit the liquefied petroleum gas tank for inspection by the fire marshal of the city, who shall require that such tank be virtually depleted of its contents, and the pressure therein reduced to the satisfaction of the fire marshal; and upon compliance with such orders of the fire marshal, the latter shall issue a permit to the owner or operator of such vehicle authorizing the delivery of such vehicle to a garage or other institution for repair.

B. No person engaged in the repair of vehicle shall receive into his or its place of business any vehicle on which a liquefied petroleum gas transport tank is mounted unless the owner or operator of such a vehicle shall then and there exhibit the permit from the fire marshal referred to in Subsection A of this Section.

C. During the hours when any repair shop or garage having possession of any vehicle on which a liquefied petroleum gas transport tank is mounted is not open for business, no such vehicle shall be kept within the garage or repair shop building.

Section 5-504 PARKING OF LPG TRUCKS PROHIBITED; EXCEPTIONS.

No person shall park, or cause to be parked, any liquefied petroleum gas transport truck or vehicle on any public street or alley, or on any public private property or driveway, within the corporate limits of the city whether or not any such transport truck or vehicle is carrying any liquefied petroleum gas on board, except when any such transport truck or vehicle is actually engaged in dispensing liquefied petroleum products into any tank or tanks then being serviced and under conditions meeting the minimum safety standards provided for by ordinance of the city and by the laws of the state.

Cross Reference: See also Sec. 15-721 on hazardous trucks, parking.

ARTICLE 6

INTERNATIONAL FUEL GAS CODE

Section 5-601 INTERNATIONAL FUEL GAS CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Fuel Gas Mechanical Code Latest Edition, adopted by the State of Oklahoma, including all appendix chapters, together with any annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Fuel Gas Code of the City of Cherokee, State of Oklahoma, for regulating and governing fuel gas system and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said

Plumbing Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes:

Section 101.1, insert the City of Cherokee, Oklahoma

Section 106.5.2, insert as provided by resolution of the City or as providing in the Cherokee Municipal Code.

Section 106.5.3, insert in first blank 75% and second blank 50%.

Section 108.4, insert as provided by Section 1-108 of the Cherokee Municipal Code.

Section 108.5, insert as provided by Section 1-108 of the Cherokee Municipal Code.

ARTICLE 7

HOUSING CODE

Section 5-701 ADOPTION OF HOUSING CODE.

There is hereby adopted by reference the CABO One and Two Family Dwelling Code, the latest edition thereof, as minimum housing code for the city, save and except such portions as are hereinafter deleted, modified or amended, as fully as if set out at length herein. If any provision of the ordinances of the city are in conflict with this provision of the housing code, except as provided in this chapter, the provisions of the dwelling code shall prevail.

Cross Reference: Permits, fees, see Article 1 of this Code.

ARTICLE 8

MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA GROWER FACILITIES, AND MEDICAL MARIJUANA PROCESSOR FACILITIES

Section 5-801 DEFINITIONS.

1. "Application" means an Application for a Permit under this Article and includes all supplemental documentation

attached or required to be attached thereto; the Person filing the Application shall be known as the "Applicant".

2. "Clerk" means the Cherokee City Clerk or his/her designee.
3. "Code Enforcement Officer" means the Cherokee Code Enforcement Officer or his/her designee.
4. "License" means a current and valid License for a Medical Marijuana Dispensary facility issued by the State of Oklahoma.
5. "Licensee" means a person holding a current and valid Oklahoma license for a Medical Marijuana Dispensary facility.
6. "Permit" means a current and valid permit for a Medical Marijuana Dispensary facility issued under this Article, which shall be granted to a permit holder only for and limited to a specific Permitted Premises and specific Permitted Property.
7. "Permit Holder" means the person that holds a current and valid permit issued under this Article.
8. "Permitted Premises" means the particular building or buildings within which the permit holder will be authorized to conduct the facility's activities pursuant to the permit.
9. "Permitted Property" means the real property comprised of a lot, parcel or other designated unit of real property upon which the permitted premises are situated.
10. "Person" means a natural person, company, partnership, profit or non-profit corporation, limited liability company or any joint venture for a common purpose.
11. "Medical Marijuana Grower Facility" means an establishment licensed under Title 63, Section 422 of the Oklahoma Statutes whereby the growing of medical Marijuana is conducted on the premises and then sold to a licensed retailer or processor.

12. "Medical Marijuana Dispensary" means an establishment licensed under Title 63, Section 421 of the Oklahoma Statutes whereby the retail sale of medical Marijuana is conducted on the premises.
13. "Medical Marijuana Processor Facility" means an establishment licensed under Title 63, Section 423 of the Oklahoma Statutes, whereby Marijuana plants are processed (packaged) into the concentrates, edible, and other forms for consumption and then sold to a licensed retailer.
14. "Tier I Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in only the following activities: the preparation (from medical marijuana in compliance with state law), including necessary grinding, of "pre-rolled" marijuana cigarettes, "joints" or "blunts" for sale on-site. Nothing in this Code affects state law license categories for medical marijuana establishments. Local zoning and licensing applicants maybe required to seek multiple state licenses in order to comply with state law.
15. "Tier II Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in Tier I medical marijuana processor activities and/or the following activities: the use of marijuana concentrate(s) in compliance with state law, to make derivative infused products for sale on-site. Tier II medical marijuana processing does not include extraction processes of any kind. Examples of Tier II medical marijuana processing are the cooking, baking or preparation of medical marijuana edible products, or the addition of marijuana concentrate to products pre-manufactured off-site, such as lotions or soaps. Nothing in this Code affects state law license categories for medical marijuana establishments.
16. "Tier III Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in any type(s) of medical marijuana processing, including all allowed extraction processes, except that on-site sales are not permitted.

Section 5-802 Medical Marijuana Dispensary

1. No person shall operate a Medical Marijuana Dispensary at any time or any location within the City of Cherokee unless a currently effective permit for that business at that location has been issued under this Article.
2. Medical Marijuana Dispensary shall operate only as allowed under this Article.
3. The requirements set forth in this Article shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
4. All operators of Medical Marijuana Dispensaries are required to obtain a Medical Marijuana Dispensary Permit from the Municipal Clerk.
5. The Medical Marijuana Dispensaries Permit Fee shall be Six Hundred Dollars (\$600.00) per year. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of retail marijuana establishments.
6. A Medical Marijuana Dispensary Permit will not be granted to any applicant where the proposed location is located outside a commercially zoned area of the corporate City limits of Cherokee, or within a restricted area as hereinafter set forth.
7. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the City of Cherokee with all material changes in any information submitted on an Application and any other changes that may materially affect any state license or its City Permit.
8. No Permit issued under this Article may be assigned or transferred to any person unless the assignee or transferee has submitted an application and all required fees under this Article and has been granted a Permit by the City of Cherokee. No Permit issued under this Article is transferrable to any other location except for the Permitted Premises on the Permitted Property.

9. The original Permit issued under this Article shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
10. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, manager, agents and employees for any state, federal or local law enforcement to conduct lawful examinations of the facility and all articles of property in that facility during business hours to ensure compliance with this Article, and other local regulations, and with the Permit.
11. No Permit shall be granted or renewed for a Medical Marijuana Dispensary in a residence.
12. In addition to the terms of this Article, any Medical Marijuana Dispensary shall comply with the City Zoning Ordinances, and with all other applicable federal, state and local ordinance, laws, codes and regulations. To the extent that the terms of this Article are in conflict with the terms of any other applicable federal, state, or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.
13. No Medical Marijuana Dispensary shall be located within 1,000 feet from a public or private school. This distance is measured by a straight line (shortest distance) from the property line of the dispensary to any entrance of the school.
14. Application. An application for a Permit for a Retail Marijuana Establishment shall be submitted to the City Clerk, and shall contain the following information:
 - A. The name, address, phone number and email address of the proposed Permit Holder and the proposed Medical Marijuana Dispensary location.
 - B. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Medical Marijuana Dispensary facility.
 - C. One (1) copy of all the following:

- (1) All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Medical Marijuana Dispensary.
- (2) If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof registration with State of Oklahoma, and a certificate of good standing.
- (3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Establishment.
- (4) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
- (5) Non-refundable Application fee.
- (6) Submit a Business and Operations Plan, showing in detail the Medical Marijuana Establishment's proposed plan of operation, including the anticipated number of employees, a security plan, a description by category of all products to be sold, a description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from the outside of the Permitted Premises, and a plan for the disposal of Marijuana and related by-products that will be used at the establishment.
- (7) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in the State of Oklahoma or any other jurisdiction that has been denied, restricted, suspended, revoked, or not

renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or non-renewal, including the licensing authority, the date each action was taken, and the reason for each action.

- (8) Information regarding any other Medical Marijuana Dispensary that the Licensee is authorized to operate in any other jurisdiction within the State of Oklahoma, or any other State, and the Applicant's involvement in each facility.
- (9) Any other information reasonably requested by the City of Cherokee to be relevant to the processing or consideration of the Application.

Section 5-803 Conditions of Operation

- A. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
- B. The Medical Marijuana Dispensary shall collect the applicable sales tax on any sales subject to municipal sales taxes.
- C. The hours of operation for a Medical Marijuana Dispensary shall be between the hours of 9:00 AM to 11:00 PM Monday through Saturday. Operations shall be closed on Sundays as well as Christmas, Thanksgiving, July 4th, New Year's Day, and Memorial Day.
- D. Any violations of this Article will result in the revocation of the Medical Marijuana Dispensary permit.
- E. It is the intent of the City of Cherokee that nothing in the Retail Marijuana Establishment Ordinance be construed to:
 - 1. Allow persons to engage in conduct that endangers or causes a public nuisance;
 - 2. Allow the use of marijuana for non-medical purposes; or
 - 3. Allow any activity that is otherwise illegal and not

permitted by state law.

Section 5-804 Medical Marijuana Grower Facilities:

- A. Medical Marijuana Grower Facilities are hereby allowed within the municipal boundaries of Cherokee, Oklahoma under the following conditions:
1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for a commercial/industrial growing facility shall be one thousand five hundred dollars (\$1,500.00) per year, or other amount as set periodically by Council resolution.
 2. The Medical Marijuana Grower Facility shall only be located in a commercial, industrial or agricultural zoned area (agricultural zone may not be adjacent to a residentially zoned area) and shall be within an enclosed structure.
 3. The Medical Marijuana Grower Facility shall have a security fence at least ten (10) feet in height and with limited access. The gates to the secure area must be locked at all times. A building which completely houses the Medical Marijuana Grower Facility and which includes solid walls, as defined by the latest addition of the International Building Code, may be substituted for the ten foot (10') security fence.
 4. The Medical Marijuana Grower Facility must be constructed in such a manner that the growing of the marijuana plants cannot be seen by the public from a public right of way.
 5. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing area must be properly ventilated so as not to create humidity, mold or other related problems.
 6. Growing marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life and

property.

7. The Medical Marijuana Grower Facility shall collect the applicable sales tax on any sales subject to municipal sales taxes.

Section 5-805 Medical Marijuana Processor Facilities.

Medical Marijuana Processor Facilities are hereby allowed within the municipal boundaries of Cherokee, Oklahoma under the following conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for all Medical Marijuana Processor Facilities, regardless of tier, shall be one thousand five hundred dollars (\$1,500.00) per year, or other amount as set periodically by Council resolution.
2. A Tier I Medical Marijuana Processor Facility or a Tier II Medical Marijuana Processor Facility may only be located in a commercial, industrial or agricultural zoned area (agricultural zone may not be adjacent to a residentially zoned area) and shall be an enclosed structure.
3. A Medical Marijuana Processor Facility shall have a security fence at least 10 foot in height and with limited access. The gates to the secure area must be locked at all times.
4. The Medical Marijuana Processor Facilities shall collect the applicable sales tax on any sales subject to municipal sales taxes.
5. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
6. Any violations of this section will result in the revocation of the Medical Marijuana Processor Facilities permit.

Section 5-806 Permit inspections and other requirements.

- A. All permits outlined in this Article will be subject to inspection of the facilities by an authorized municipal

inspector prior to issuance.

- B. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.
- C. The applicant will be required to be present during the inspection.
- D. The smell of noxious odor emitted from smoking or consumption of marijuana by a person possessing a valid state issued medical marijuana license shall be treated as a public nuisance.
- E. Other regulations: Smoking or using marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.

ARTICLE 9

FAIR HOUSING

Section 5-901 PURPOSES.

The general purposes of this chapter are:

- 1. To secure for all people equal access to housing in all neighborhoods; and
- 2. To preserve the public safety, health and welfare.

Section 5-902 ACTS PROHIBITED.

It is unlawful for any person, commercial lending institution, real estate broker, real estate salesman or agent to:

1. Refuse to sell, lease, rent, assign or otherwise transfer the title or other interest in any housing, or real property upon which residential housing is to be constructed to any person, or to discriminate in the terms or conditions of the sale, rental or leasing of any residential housing unit, because of race, color, sex, religion or national origin;

2. Refuse to negotiate with any person for the sale, rental, or leasing of any residential property, or to represent that such

property is not available for inspection, sale, rental or lease when in fact it is so available, because of such person's race, color, sex, religion or national origin;

3. Solicit or induce, or attempt to solicit or induce, any person owning any interest in any residential housing to sell, rent or lease, or not to sell, rent or lease such housing to any person on the ground of loss of value due to the present or prospective entry into the neighborhood of a person or persons of another race, color, sex, religion, or national origin, either by direct solicitation or inducement or by the purchase of other property in the neighborhood for the purpose of such inducement, or to distribute, or cause to be distributed, or making statements designed to induce a residential property owner to sell or lease his property due to such change in the neighborhood;

4. Deny or make different terms or conditions for home loans by a commercial lender, such as a bank, savings and loan association, mortgage institution or insurance company; or

5. File a complaint alleging a violation of this chapter, with knowledge that such complaint is false in any material respect, or to file such complaint for the sole purpose of harassment.

Section 5-903 EXEMPTIONS.

The following shall not apply:

1. Any religious nonprofit organization, association, or society operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale or rental of dwellings units owned or operated for other than a commercial purpose;

2. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single-family houses at any one time, and provided further that only one such sale may be made within any twenty-four (24) month period; or

3. Any dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independent of each other and the owner actually occupies one such living quarter as his residence.

Section 5-904 FAIR HOUSING BOARD CREATED.

There is hereby created a fair housing board of the city, hereinafter referred to as the "board", composed of five (5) citizens and resident members, who are the persons presently constituting the Mayor and members of the governing board of the City of Cherokee, Oklahoma, and the persons who shall be their successors as Mayor, and members of said governing board of the City of Cherokee, Oklahoma, and each such successor in office shall, upon taking the Oath of Office, but without any further act, deed or conveyance, automatically become a member of the Fair Housing Board.

Section 5-905 PROCEDURE.

A. Any person aggrieved by discriminatory practice prohibited by this chapter, may file with the fair housing board, a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved and shall state the name and address of the person alleged to have violated the provisions of this chapter and shall further set forth the particulars of the violation and may include such other information as may be required by the board. Complaints filed under this Section must be filed within thirty (30) days after the alleged violation, and failure to file within that time, shall be considered a waiver of the application of this chapter. The board may issue a complaint on its own initiative, at any time it is within the knowledge of the board that a person has violated any of the provisions of this chapter.

B. The board shall investigate each complaint filed with the board and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty (60) days shall be allowed for the purpose of investigation, conference and conciliation. Upon determination that a complaint is not well founded, the board shall dismiss the complaint and notify the complainant and respondent in writing of the dismissal. If it appears that the complaint might have merit, the complainants shall be advised of their rights under existing state and federal laws.

C. If conference or conciliation does not result in compliance with this chapter, the board shall cause to be issued and served in the name of the city, a written notice, together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as respondent, to answer

charges of the complaint at a hearing before the board at a time and place to be specified in the notice.

D. At the hearing, provided for in Subsection C above, the complaint shall be heard by the board. At the hearing, the complainant or person aggrieved may appear in person or by counsel, and the respondent may file a written answer to the complaint and may appear in person or by legal counsel. The board, when conducting any hearing, pursuant to this Section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the board, the party requesting the transcription to be responsible for the costs thereof. If the board finds at the hearing, that the respondent has engaged in any discriminatory practice or practices, prohibited by this chapter, it shall state its findings of fact, and shall so certify the matter to the city attorney for appropriate action. No prosecution shall be brought under this chapter except upon such certification. If the board, upon hearing, finds that respondent has not engaged in any discriminatory practice, it shall state its findings of fact, and shall issue and file an order, dismissing the complaint. The board shall establish rules and regulations to govern and expedite and effectuate the foregoing procedure and shall maintain the files provided for herein.

Section 5-906 NOTICES.

Any and all notices required under the provisions of this chapter to be served upon any person, may be served personally on such person, or by mailing a copy thereof by certified or registered mail, with return receipt requested, to the most current business or residence address of such person

ARTICLE 10

CERTIFICATE OF OCCUPANCY

Section 5-1001 HOUSING INSPECTION PROGRAM.

In order to protect the safety and well-being of city residents, a Housing Inspection Program is hereby created. Implementation of this program will be at the discretion of the City Manager or his designee, provided that the following elements are included in the implementation:

- a. All residential dwellings except apartment complexes within the city will be subject to inspection at the following times:
 - (1) each time the primary occupant of the dwelling changes;
 - (2) after a property has been vacant for a period of time exceeding one hundred and eighty (180) days;
 - (3) after utility service to the dwelling is terminated for non-payment or for other reasons as provided for by city code and the utility account is closed;
 - (4) when application is made for re-occupancy after a structure is condemned under the provisions of adopted codes, provided that the Building Official may also require additional or more detailed inspections before re-occupancy is approved.
- b. Pursuant to the city's adopted codes, each dwelling will require a valid Certificate of Occupancy before the dwelling is occupied and city utility services are initiated.
- c. Application for a Certificate of Occupancy may be made by the property owner or his designee or may be made by a potential tenant with endorsement by the property owner or his designee.
- d. Application for a Certificate of Occupancy will necessitate an inspection under this program.
- e. Inspections will be conducted by city personnel, as designated by the City Manager, under the supervision of the Building Official.
- f. Inspections performed as part of this program will be conducted according to an established inspection checklist approved by the City Manager or his designee and based on the city's adopted codes. In the case of a newly constructed or remodeled dwelling, or of a dwelling that was recently inspected by the Building Official, the required inspection may be abbreviated as appropriate.

- g. In the event a property is found not to be compliant with the city's adopted codes, notice of the violations shall be given to the property owner along with a deadline for corrections to be made;
- h. Dwellings found to be in such a condition as to be dangerous or unsafe will be referred to the Building Official for further inspection and enforcement action, up to and including condemnation and demolition as provided for by the city's adopted codes. The application fee for a Certificate of Occupancy shall be forty (40) dollars. In the event violations are found, there shall be no charge for the first re-inspection. The fee for subsequent re-inspections shall be one hundred (100) dollars per re-inspection, provided that the fee may be waived by the City Manager in the event significant progress is being made toward compliance.
- i. The City Manager or his designee shall establish a mechanism ("pre-clearance") by which property owners or their designees can apply for a Certificate of Occupancy in anticipation of future occupancy. This "pre-clearance" shall be valid until the structure is occupied, provided that the period of vacancy after the Certificate of Occupancy is issued does not exceed one hundred and eighty (180) days.
- j. Violations arising out of this program will be addressed pursuant to the provisions of this article.
- k. Appeals of decisions of the Building Official or his designee arising out of this program will be addressed pursuant to the provisions of this article.
- l. The City Manager is authorized to implement regulations consistent with this article.

Section 5-1002 NONRESIDENTIAL OCCUPANCY.

Occupancy of commercial and industrial structures and portions thereof shall be governed by applicable codes. A valid Certificate of Occupancy is required before such a structure or portion thereof may be occupied unless temporary approval has been granted by the Building Official. A new Certificate of Occupancy shall be required each time a change in occupancy or occupant changes or when the use of the structure or portion thereof is

changed or an additional use is added or after a cessation of business activities or vacancy for a period exceeding ninety (90) days.

Section 5-1003 INITIATION OR CONTINUATION OF UTILITY SERVICES.

It shall be unlawful for any utility to initiate or continue services to a structure lacking a valid Certificate of Occupancy, provided that the Building Official may authorize provision of utility services, either on a temporary or ongoing basis, to a structure undergoing construction under a valid permit. Utility service to a vacant structure need not be discontinued unless ordered so by the Building Official due to a violation of the city's adopted codes or existence of an unsafe condition, but a new Certificate of Occupancy will be required before the structure is re-occupied, subject to the provisions of this article.

Section 5-1004. CONDEMNATION FOR OCCUPANCY.

When conditions warrant, the Building Official may declare a structure (or portion thereof) to be Condemned for Occupancy and order it to be vacated and secured as provided for in the adopted codes. It shall be unlawful for any person to enter a structure that is Condemned for Occupancy for any reason without the written permission of the Building Official. The determination that a structure should be Condemned for Occupancy is made in the sole discretion of the Building Official and is based on the criteria set forth in the applicable adopted code. This determination relates only to the lawful entry into and occupancy of a structure or portion thereof and has relation neither to the concept of condemnation as used in the context of acquisition of property nor to the process by which a municipality can take action to clear and remove a dilapidated structure that is set forth by state statute. Condemnation for Occupancy can be administratively withdrawn in the sole discretion of the Building Official at any time, provided that such withdrawal serves to further compliance with the provisions of this Article.

Section 5-1005. RE-OCCUPANCY AFTER CONDEMNATION.

The owner of a structure that has been Condemned for Occupancy seeking to remove that condemnation shall file an application for re-occupancy and pay the re-occupancy fee set forth in this article. Once the application has been received, a re-occupancy inspection will be scheduled and a correction notice generated by

the Building Official. Depending on the condition of the structure, multiple inspections may be required and corrections may be issued in phases. The correction notice may include permission to enter the structure for the purpose of completing corrections and may restrict time and nature of entry into the structure and may include authorization for construction utility services. Re-occupancy will not be approved until the structure is compliant with applicable codes, however, the Building Official may grant provisional or temporary occupancy once repairs have been substantially completed.

In the event a structure is Condemned for Occupancy solely for lack of required utilities, facilities or appliances, the Building Official may waive the requirement for a re-occupancy inspection upon submission of proof that the defect preventing lawful occupancy has been cured. In this case, a reduced Re-occupancy. Fee will apply as set forth in this Article.

Obtaining a re-occupancy inspection does not remove the requirement to obtain any necessary permits and inspections as required by the provisions of this Article.

ARTICLE 11

PENALTY

Section 5-1101 PENALTY.

Any person, firm or corporation who shall engage in any business, trade or vocation for which a license, permit, certificate or registration is required by this part, without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by this part or by any code adopted by this part, or who shall otherwise violate any provision of the chapters in this part or of any code adopted by this part, or who shall violate any lawful regulation or order made by any officers provided for in this part shall be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Each day such violation is committed or continues to exist shall constitute a separate offense and is punishable as such.

Section 5-1102 RELIEF IN COURTS.

No penalty imposed by and pursuant to this part shall interfere with the right of the city also to apply to the proper

courts of the state for a mandamus, an injunction or other appropriate action against such person, firm or corporation.

Section 5-1103 SUSPENSION OR REVOCATION OF REGISTRATIONS ISSUED BY CITY.

A. The City Commission may suspend or revoke any plumbing, electrical, mechanical or other registration issued pursuant to this Chapter, if it finds that the holder has:

1. Made a material misstatement in the application for any registration or renewal thereof;
2. Loaned or illegally used his registration;
3. Violated any provision of this code; or
4. Committed any act specified in this code as grounds for suspension or revocation of any registration.

B. Complaints against any person registered pursuant to this part shall be filed with the city clerk and thereafter investigated by the appropriate city department head, or his designee. All complaints shall be in writing, signed and duly verified; provided however, this procedure shall not be exclusive and shall not preclude the filing of a complaint in the municipal court.

(10) The person against whom the complaint is signed shall be entitled to a public hearing before the City Commission. Within ten (10) days after the filing of a written complaint, the appropriate city department head shall serve written notice of the complaint upon the registered person. The notice shall be served personally or by certified mail (return receipt requested). If the notice is served personally it must be served at least ten days prior to the scheduled hearing. If the notice is served by mail it must be postmarked at least ten (10) days prior to any scheduled hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of the ordinance

and rules involved;

4. A copy of the complaint;

5. A statement that the accused has a right to a public hearing in his defense at which time he may respond to the allegation in the complaint by his testimony, the testimony of witnesses or other admissible evidence;

6. A statement that the individual has a right to be represented by legal counsel and a right to confront his accusers; and

7. A statement that based upon the evidence presented at the hearing, the City Commission shall decide to either dismiss the complaint or recommend the suspension or revocation of the registration.

C. All writings or documents admitted into evidence shall become a part of the record of the proceedings. A party or members of the board may conduct direct and cross examinations required for a full and true disclosure of the facts. After all evidence has been submitted, the City Commission shall vote to either dismiss the complaint or suspend or revoke the registration. A suspension shall include a recommendation for a time period during which the registration is to be suspended; provided however, that a registration cannot be suspended for a period of time exceeding six (6) months.

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CHAPTER 6. COURT

ARTICLE 1

MUNICIPAL COURT

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CHAPTER 6. COURT

ARTICLE 1

MUNICIPAL COURT

Section 6-101 ORGANIZATION OF MUNICIPAL COURT.

This chapter shall govern the organization and operation of the municipal criminal court not of record of the City of Cherokee as put into operation by resolution, duly passed and filed in accordance with law, as authorized by Sections 27-101 and 27-102 of Title 11 of the Oklahoma Statutes. To the extent of conflict between any provisions of this chapter and the provisions of any ordinances of this city, the provisions of this chapter shall control. The court shall become operative on and after the 12th day of February 1967.

State Law Reference: Municipal courts not of record, organization, rules and procedures, 11 O.S. Section 27-101 to 27-132.

Section 6-102 DEFINITIONS.

As used in this chapter, unless the context required a different meaning, the following words shall have the meanings ascribed to them in this Section:

1. "Chief of police" means the peace officer in charge of the police force of the municipality;

2. "Clerk" means the clerk of this municipality, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office;

3. "Court" means the municipal court of the City of Cherokee;

4. "Governing body" means the City Commission of the City of Cherokee;

5. "Judge" means the judge of the municipal court, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter;

6. "Municipality" or "this municipality" means the City of Cherokee, Oklahoma; and

7. "This judicial district" means the district court judicial district of the State of Oklahoma wherein the government of this municipality is situated.

Section 6-103 JURISDICTION OF COURT.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law.

Section 6-104 JUDGE; QUALIFICATIONS.

There shall be one judge of the court. The Mayor, with the consent of the governing body, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in Alfalfa County or in an adjacent county; or

2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the City of Cherokee; or

3. Any suitable person who resides in the Alfalfa County or in an adjacent county.

The judge may serve as judge of other municipal courts, if such service may be accomplished consistently with his/her duties as judge of this court, with the consent of the City Council. A judge should have a good moral character. A judge who is a licensed attorney may engage in the practice of law in other courts, but the judge shall not accept employment inconsistent with his duties as judge or arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, pending therein or which might become the subject of proceedings therein.

Section 6-105 TERM OF JUDGE.

The official term of the judge shall be two (2) years expiring on the 11th day of February of each odd-numbered year and until a successor is appointed and qualified, unless removed by

the vote of a majority of all members of the governing body for such cause as is provided for by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term.

Section 6-106 ALTERNATE JUDGE.

There shall be appointed for each judge of the court an alternate judge possessed of the same qualifications required of the judge in this chapter. The alternate judge's appointment shall be for the same term and made in the same manner as the judge. The alternate judge shall sit as acting judge of the court in any case if the judge is:

1. Absent from the court;
2. Unable to act as judge; or
3. Disqualified from acting as judge in the case.

Section 6-107 APPOINTMENT AND COMPENSATION TO JUDGES.

A. Judges and alternative judges shall be appointed by the governing body.

B. All judges shall receive compensation as set by the governing body by ordinance.

C. The municipal judge shall receive monthly compensation in the amount of Five Hundred Dollars (\$500.00).

Section 6-108 DISQUALIFICATION OF JUDGE.

In prosecutions before the court no change of venue shall be allowed; but the judge before whom the case is pending may certify disqualification or may be disqualified from sitting under the terms, conditions and procedure provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate judge appointed as provided in this chapter.

Section 6-109 PROCEDURE-JUDICIAL NOTICE OF STATUTES AND
ORDINANCES-WRITS AND PROCESS-SERVICE OF ARREST WARRANTS.

Except as otherwise provided for by law, the code of procedure in the municipal court shall be the same as is provided for by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the city in which it is located. Writs and processes of the court may be issued by the judge or clerk hereof to any proper officer. All writs and processes of the municipal court in which a violation of a municipal ordinance is charged shall be directed to the chief of police of the city, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the city or county sheriff may serve an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee of Twenty Dollars (\$20.00).

Section 6-110 MUNICIPAL COURT CLERK.

The municipal court clerk, or deputy designated by such clerk, shall be the clerk of the municipal court. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;
2. Administer oaths required in judicial or other proceedings before the court;
3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;
4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and
5. Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

Section 6-111 MUNICIPAL ATTORNEY AS PROSECUTOR.

The municipal attorney of the city may be the prosecutor of the municipal court. The prosecutor shall have full power to prosecute for the violations of any ordinance of the municipality in the municipal court and shall have the power to prosecute and resist appeals and proceedings in error and review from the municipal court.

Section 6-112 BOND OF CLERK.

The court clerk of the court shall give bond, in the form provided by Section 27-111 of Title 11 of the Oklahoma Statutes. When executed, the bond shall be submitted to the governing body for approval. When approved, it shall be filed with the clerk of this municipality and retained in the municipal archives.

Section 6-113 RULES OF COURT.

The judge may prescribe rules, consistent with the laws of the state and with the ordinances of this municipality for the proper conduct of the business of the court.

Section 6-114 ENFORCEMENT OF RULES.

Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the judge, who may fine or imprison for contempt committed while holding court, or committed against process issued by any authorized person, in the same manner and to the same extent as the district courts of this state.

Section 6-115 PROSECUTIONS BY VERIFIED COMPLAINT.

A. All prosecutions commenced in the municipal court shall be by complaint which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. No warrant for arrest shall be issued until the complaint has been approved by the judge of the municipal court. All prosecutions for the violation of municipal ordinances shall be styled, "The City of Cherokee vs. _____ (naming the person charged.)"

B. The information shall be properly verified if:

1. The issuing officer subscribes the officer's signature on the citation, ticket or complaint to the following statement:

"I, the undersigned issuing office, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Such a subscription by an issuing officer, in all respects, shall constitute a sworn statement, as if sworn to upon an oath administered by an official authorized by law to administer oaths; and

2. The citation or ticket states the specific facts supporting the criminal charge and the ordinance or statute alleged to be violated; or

3. A complainant verifies by oath, subscribed on the citation, ticket or complaint, that he has read the information, knows the facts and contents thereof and that the facts supporting the criminal charge stated therein are true. For purposes of such an oath and subscription, any law enforcement officer of the municipality issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

Section 6-116 CREATION OF VIOLATIONS BUREAU.

A. There shall be established a violations bureau for the city. The judge may establish rules, consistent with the laws of the state and with the ordinances of this municipality, for the violation's bureau.

B. The violations bureau shall accept fines which may be paid in lieu of a court appearance for such offenses as may be designated by the judge under the court's rules. The schedule of fines shall be as set out in Section 1-110. A copy shall be kept in the clerk's office.

C. Payment of any fine to the violation's bureau shall be deemed a final determination of the cause against the defendant.

D. If a defendant who has elected to pay a fine under this Section fails to do so, prosecution shall proceed under the provisions of this chapter.

Section 6-117 TRAFFIC BAIL BOND PROCEDURES.

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States which is a participant of the Nonresident Violator Compact, or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation; and

4. The violation does not constitute:

- a. A felony;
- b. Negligent homicide;
- c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;
- d. Eluding or attempting to elude a law enforcement officer;
- e. Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation;
- f. An arrest based upon an outstanding warrant;
- g. A traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph;

h. An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or

I. A violation relating to the transportation of hazardous materials.

B. If the arrested person is eligible for release on person recognizance as provided for in subsection A of this Section, then the arresting officer shall:

1. Designate the traffic charge;

2. Record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;

3. Record the motor vehicle make, model and tag information;

4. Record the arraignment date and time on the citation;
and

5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the assigned promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driver's license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was

entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in Subsection D of this Section. Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of driver's license, shall be required by the city or as provided in state law, Sections 1115.1 through 1115.5 of Title 22 of the Oklahoma Statutes.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. The defendant shall be responsible for assuring full payment of the fine and costs to the court clerk. Payment of the fines and costs may be made by personal, cashier's traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in the amount presented as bail for the offense. However, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the court or, in the absence of such ordinance, in the amount prescribed by the court.

E. If, pursuant to the provisions of subsection D of this Section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

1. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;

2. The defendant has failed to appear for arraignment without good cause shown;

3. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and

4. The citation has not been satisfied as provided by law.

The court clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in this state or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The court clerk shall not process the notification and request provided for in this subsection if, with respect to such charges:

1. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;

2. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this Section or if released, was not permitted to remain on such personal recognizance for arraignment;

3. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or

4. A period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. The court clerk shall maintain a record of each request for driver's license suspension submitted to the State Department of Public Safety pursuant to the provisions of this Section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if defendant personally appears, or shall make such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or as such other address as is furnished by the

defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases, notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

Section 6-118 EXCEPTIONS TO BAIL BOND PROCEDURE.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 6-117, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the person's arrest and the case shall be processed pursuant to Section 27-118 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 6-117 of this code, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to the judge for arraignment and the judge shall proceed as otherwise provided for by law. If no judge is available, the defendant shall be placed in the custody of the municipal jailer, to be held until a judge is available or bail is posted.

C. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this Section but shall be incarcerated separately from any adult offender. Provided, however, the arresting officer shall not be required to:

1. Place a juvenile into custody as provided for in this Section; or
2. Place any other traffic offender into custody:

- a. Who is injured, disabled, or otherwise incapacitated;
- b. If custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care; or
- c. If extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time for arraignment on the citation and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

Section 6-119 DISHONORED CHECKS OR INSTRUMENTS, WARRANTS.

A personal check or other instrument tendered to the court clerk for bail or for the payment of fine and costs, if dishonored and returned to the clerk for any reason other than the lack of proper endorsement, shall constitute nonpayment of bail or fine, as the case may be, and the court, in addition to any civil or criminal remedy otherwise provided for by law, may issue a bench warrant for the arrest of the person named on the citation to require his appearance on the charge specified.

Section 6-120 ARREST, CITATION AND BAIL FOR ORDINANCE VIOLATIONS.

A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer, for the violation of any traffic ordinance for which Section 6-117 does not apply or is arrested for the violation of a non-traffic ordinance, the officer shall immediately release the person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release the person if it reasonably appears to the officer:

- 1. That the person may cause injury to himself or others or damage to property if released;
- 2. That the person will not appear in response to the citation; or

3. The person is arrested for an offense against a person or property.

If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled. If the arrested resident is not released by being permitted to sign a citation as herein provided, he shall be admitted to bail either before or after arraignment or shall be released on personal recognizance.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which this Section does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

Section 6-121 SUMMONS FOR ARREST.

A. Upon the filing of a complaint charging violation of any ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, he shall issue a summons, naming the person charged, specifying his address or place or residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a certain day as specified after the summons is served upon him, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter.

Section 6-122 FORM OF ARREST WARRANT.

A. Except as otherwise provided in the ordinances of this municipality, upon the filing of a complaint approved by the endorsement of the attorney of this municipality or by the judge, there shall be issued a warrant of arrest, in substantially the following form:

The City of Cherokee to the Police Chief of Cherokee,
Oklahoma

Complaint upon oath having this day been made by (naming complainant) that the offense (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefore forthwith to arrest the above-named defendant and bring the above named (name of defendant) before me, at the municipal courtroom,

Witness my hand this _ day of _, 20__.

Judge of the Municipal Court
Cherokee, Oklahoma

B. It is the duty of the police chief, personally, or through a duly constituted member of the police force of this municipality, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible.

Section 6-123 PROCEDURES FOR BAIL OR BOND.

A. Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this chapter or the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions or emergency or when the judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary cash bond of not less than Ten Dollars (\$10.00) nor more than the maximum monetary penalty provided by ordinance for the offense charged.

B. A bail bond schedule may be adopted by the judge and be amended from time to time.

Section 6-124 ARRAIGNMENT AND PLEADINGS BY DEFENDANT.

Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the attorney of the municipality, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him

whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

Section 6-125 TRIALS AND JUDGMENTS.

A. Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

B. The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

C. In all trials, as to matters not covered in this chapter, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

D. If the defendant pleads guilty or is convicted after the trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

E. At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

F. If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.

G. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied at the rate of one day imprisonment for each Five Dollars (\$5.00) of fine or as set out in Subsection H hereof for defendants who are without means to make such payment.

H. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court of the county wherein the status of government is situated

where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

Section 6-126 WITNESS FEES.

Witnesses in any proceeding in the court other than the police officers or peace officers shall be entitled to a sum per day of attendance. However, no witness shall receive fees in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

1. The names of no more than three (3) witnesses;
2. That the defendant, by reason of poverty, is unable to provide the fees allowed by law;
3. That the testimony of the witnesses is material; and
4. That their attendance at the trial is necessary for his proper defense.

The fees of such witnesses shall be paid by the municipality.

Section 6-127 SENTENCING.

A. The judge may suspend, modify, defer or reduce a sentence in accordance with Sections 27-123 and 27-124 of Title 11 of the Oklahoma Statutes. For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the City; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

B. A judge who is licensed to practice law in this state in imposing a judgment and sentence, at his discretion, is empowered

to modify, reduce or suspend or defer the imposition of such sentence or any party thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty. The judge may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense. If the municipal judge is not a licensed attorney but has complied with the education requirements of subsection 11 O.S. §27-104F and the education requirements of 47 O.S. §18-101, the maximum fine that the judge may impose shall be Five Hundred Dollars (\$500.00). No City ordinance may impose a penalty, including fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

Section 6-128 IMPRISONMENT, WORK BY PRISONERS; COST OF INCARCERATION TO BE COLLECTED

A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm or workhouse, of

the municipality, in the discretion of the court, for the time specified in the sentence.

B. If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

C. All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks buildings, or other public premises or property. For each day of such work, the prisoner shall be credited for serving one day of imprisonment under his sentence.

D. The chief of police, subject to the direction of the governing body, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself, or by some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefore.

E. Costs of Incarceration to be collected.

1. For purpose of this section, "Costs of incarceration" shall mean the costs of booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services.

2. The costs for incarceration shall be determined by the chief of police for city jails and by applicable contract provision (between the City and County) for county jails. A notice of such costs shall be provided to the defendant.

3. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the

defendant. The court clerk shall be notified of any amount collected.

4. Costs of incarceration shall be a debt of the defendant owed to the municipality responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty. Jail fees shall not exceed Three Thousand Dollars (\$3,000.00).

F. Effective November 1, 2004, any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the City, subject to direction by the Town Administrator or other proper officer, at a rate per day of Twenty-five Dollars (\$25.00) per day for useful labor, until the fine or costs are satisfied.

Section 6-129 COSTS.

Costs in the amount of Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses shall be charged and collected by the clerk of the municipal court in all cases other than those in which the defendant is acquitted or found not guilty or those which are dismissed upon motion of the defendant or the city attorney. Court costs in the amount of Thirty Dollars (\$30.00) shall be charged and collected by the clerk of the municipal court in all cases in which the defendant pleads guilty before the traffic violations bureau.

State Law Reference: Costs, 11 O.S. Section 27-126; suspension of judgment or costs, 11 O.S. Section 27-123.

Section 6-130 PENALTY ASSESSMENTS

A. For purposes of this section, the word "convicted" shall mean any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise, and deferred or suspended sentence or judgment.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or

any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay:

1. Nine Dollars (\$9.00), less 5.85% of such amount which may be retained and deposited into the City's General Fund. and with the balance paid into certain CLEET Funds as provided by 20 O.S. 1991 Section 1313.2

2. Ten Dollars (\$10.00) less \$0.50 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to the A.F.I.S. Fund created by 74 O.S. 150.25.

3. Ten Dollars (\$10.00) less \$0.25 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to as a Forensic Science Improvement Assessment.

C. These penalty assessments shall be in addition to and not in substitution for any and all fines and penalties and costs otherwise provided for such offense. Such penalty assessments shall be deposited as required by state law.

State Law Reference: Similar provision, 20 O.S. Section 1313.1 through 1313.3.

Section 6-131 ISSUANCE OF SUMMONS AND WARRANT.

A. Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a day certain, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear to answer the summons within the prescribed period, a warrant shall be issued for his arrest.

C. Upon proper application, the judge is hereby authorized to issue a search warrant if he is satisfied of the existence of

grounds of the application or if there is probable cause to believe their existence. Such warrant shall be signed by the judge with his name of office to the police chief, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate, and also to arrest the person in whose possession the same may be found, to be dealt with according to law.

State Law Reference: Complaints, 11 O.S. Section 27-115.

Section 6-132 SECURITY FOR COSTS BEFORE COMMENCEMENT OF PROSECUTION.

When application is made by any person to commence any prosecution in the municipal court, the municipal judge may, at his discretion, before any such proceeding is commenced, require the person making such application to give good and sufficient security for costs in the event the prosecution should fail.

Section 6-133 MALICIOUS PROSECUTION; COSTS.

If upon the trial of any case in the municipal court, it shall appear to the satisfaction of the court that the prosecution was commenced without probable cause, and from malicious motive, the court shall state the name of the complainant in the finding, and shall impose the costs of prosecution upon him; and the judgment shall be rendered against such complainant that he pay such costs and stand committed until the costs are paid.

Section 6-134 FAILURE TO OBEY PROMISE OR NOTICE TO APPEAR.

A. It shall be unlawful for any person to violate his written promise to appear in the municipal court given to an officer upon the issuance of any promise or notice to appear regardless of the disposition of the charge for which such promise or notice to appear was originally issued.

B. It shall be unlawful for any person to fail to appear in the municipal court pursuant to any notice to appear.

C. A written promise or notice to appear in the municipal court may be complied with by an appearance by counsel.

Section 6-135 DISPOSITION AND RECORDS.

A. The chief of police, or other responsible officer, shall cause the original copy of every ticket issued to an alleged violator of any ordinance to be deposited with the municipal court in the manner provided by rule.

B. Upon the deposit of such ticket with the municipal court said ticket may be disposed of only by trial in said court, or other official action by a judge of said court, including forfeiture of bail, or by payment of a fine, to the court clerk; provided however, the provisions of this subsection shall not apply to cases which city attorney declines to prosecute or are withdrawn by a citizen complainant.

C. It shall be unlawful and official misconduct for any person to dispose of, alter or deface a ticket or any copies thereof, or the record of the issuance or disposition of any ticket or warrant in a manner other than authorized.

D. The chief of police shall maintain or cause to be maintained a record of all warrants issued by the municipal court and which are delivered to the police department for service, and of the final disposition of all warrants.

Section 6-136 COMMUNITY SERVICE IN LIEU OF IMPRISONMENT; FAILURE TO PERFORM.

All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the municipal jail, in the discretion of the court, for the time specified in the sentence, provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

Section 6-137 COMMUNITY SERVICE IN LIEU OF A FINE; FAILURE TO PERFORM.

Whenever any person is convicted in municipal court for violation of a municipal ordinance, the court may order the

defendant to a term of community service or remedial action in lieu of fine or in conjunction with imprisonment. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

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CHAPTER 7: FINANCE AND TAXATION

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CHAPTER 7: FINANCE AND TAXATION

ARTICLE 1

FINANCE AND BUDGET ADMINISTRATION

DIVISION 1

General Provisions

Section 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

All banks which are incorporated under federal or state law, and other institutions approved by the City Commission, may be designated as depositories for the funds of the city. The city treasurer shall deposit daily all public funds received by him in such banks.

State Law Reference: Deposits by treasurers, designation of depositories; 11 O.S. Section 12-110.

Section 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the Unit Collateral System provided by the Oklahoma Statutes.

State Law Reference: Unit Collateral System, 62 O.S. Sections 516.1 et seq.

Section 7-103 RESERVED

Section 7-103A PAYROLL DISBURSEMENTS

A. For all employees and officers of the City of Cherokee, a documented record shall be maintained in a personnel file of the authorized rate of pay or salary for each employee and officer.

B. For each pay period, a record of time worked shall be prepared in the form of time sheets or logs for each employee and officer to be paid. Such record of time worked shall be verified as to its accuracy in writing by the employee, each employee's department head, and the payroll clerk.

C. Upon verification of the work record, a payroll register including the amount of gross pay, authorized deductions, and net pay shall be prepared by the payroll clerk.

D. The net payroll checks shall be prepared from the payroll register, along with checks for payment of related payroll taxes and other payroll benefits required by law or contract.

E. The payroll checks and the payroll register shall be presented to at least two authorized check signers who may be the Mayor, an authorized member of the City Council, City Clerk or the Treasurer, who shall compare the payroll checks to the payroll register and verify their accuracy. Upon verification, any two (2) authorized check signers shall approve distribution.

F. The payroll register shall be provided to the governing body for informational purposes at their next meeting; however, governing body approval is not required prior to payment of payroll related costs if incurred and paid in accordance with the provisions above.

Section 7-104 PURCHASES OF GOODS AND SERVICES (OTHER THAN PAYROLL AND PAYROLL RELATED)

A. Notwithstanding any other provision contained in this municipal code or purchasing manual to the contrary:

1. By resolution duly adopted, the City shall designate the employees or officers who are designated as purchasing officers empowered to purchase or contract against budget appropriation accounts.

2. The City Manager is authorized to make certain payments and purchases without prior governing body approval:

a. The City Manager is hereby authorized to approve payments of invoices without prior City Commission approval, including but not limited to those times necessary to avoid late payment penalties, provide for payment of C.O.D.'s, emergency purchases, to take advantage of discounts, to attend and bid at private or public auctions, or pursuant to any provision in any contract which has heretofore been approved by the City Commission.

b. The City Manager is hereby authorized to make purchases of goods, equipment, materials and services necessary for the operation of the various municipal utility systems in an amount not to exceed Fifteen Thousand Dollars (\$15,000.00) per individual situation, without prior City Commission approval. Except in the event of an emergency all procurement procedures shall be followed excepting governing body approval.

Except for emergency purchases, no payments or purchases made pursuant to this Section shall exceed the expenditure classification of the respective department as approved in the current budget or the financial limitation provided herein. Such payments or purchase price of any item authorized herein shall be placed on the next regularly scheduled City Commission meeting under the category of Prepaid Invoices or Payments.

B. The officer or employee receiving satisfactory delivery of merchandise or contract services shall acknowledge such fact by signing the invoice or delivery ticket. The invoice, along with delivery ticket if applicable, must then be verified by the authorized purchasing officer as to quantities, services, and prices. If correct, the invoice must then be signed by the authorized purchasing officer and coded with the fund(s) and budget line item(s) to be charged.

C. The accounts payable clerk shall review all invoices for proper signatures and appropriateness of fund(s) and budget line item(s) to be charged. Upon acceptance of the invoices, the accounts payable clerk shall prepare checks in payment of the invoices and shall cancel each invoice as its check is prepared. Invoices shall be canceled by noting on the invoice the date paid, the check number used to pay the invoice, and the amount paid with the check.

D. The accounts payable clerk shall prepare the checks for distribution. The invoices and checks shall be presented to at least two authorized check signers who may be the Mayor, an authorized member of the City Council, City Clerk or the Treasurer, who shall compare the checks to the invoices and verify their accuracy. The City Clerk shall then record the checks in the appropriate cash disbursements journals and shall prepare a check register and any two (2) authorized check signers shall approve distribution. The check register shall list in check

number order the check date, check number, vendor, and check amount.

E. The check register shall be provided to the governing body for informational purposes at their next regular meeting; however, governing body approval is not required prior to payment of invoices if paid charges were incurred and paid in accordance with the provisions above.

F. For all purchases of goods and services over \$25,000.00, purchase orders or contracts shall be prepared and approved by the governing body prior to the time the commitment is made, and such approval shall be recorded in the minutes of the governing body. Additionally, the City Clerk shall immediately determine that there exists available unencumbered appropriation in the accounts to be charged, and such determination shall also be recorded in the minutes. Should appropriation not be available for the proposed purchase or commitment, the purchase or commitment shall not proceed until necessary budget amendments are authorized.

Section 7-104A INTERFUND TRANSFERS

A. All transfers between funds shall only be made in accordance with governing body appropriations as reflected in the original or amended City budget.

B. Once lawfully appropriated, interfund transfers may be made by the City Clerk without further governing body approval in the manner used for payment of purchases of goods and services.

Section 7-105 PETTY CASH

A. As provided for in Title 11 O.S., Section 17-102(D), the City may have petty cash accounts for use in making certain small payments for costs incurred in operating the City.

B. Each petty cash account established shall require governing body approval, including the imprest amount of the petty cash account. However, in no case should the imprest balance exceed \$2,000.

C. The petty cash accounts shall be reimbursed by utilizing properly itemized invoices in the manner used for payment of

purchases of goods and services. However, in no case shall an individual payment from petty cash exceed \$100.

Section 7-106 DEBT SERVICE, FINANCIAL REPORTING & PUBLIC TRUST APPLICABILITY

1. Debt Service

A. All long-term indebtedness in the form of bonds, notes, or lease purchase obligations shall be incurred in the manner provided by law.

B. Once lawfully incurred, the accounts payable clerk shall make payments of principal and interest on the debt in accordance with the terms specified by the lender without further approval of the governing body.

C. The manner of payment shall be consistent with the manner used for payment of goods and services.

D. Current balances on outstanding debt shall be maintained by the City Clerk in the appropriate journals.

2. Financial Reporting

A. The City Clerk shall prepare written monthly financial reports which disclose at least all receipts and expenditures by fund in the same format as the approved budget and showing the variance from the budget.

B. The financial reports shall be placed on the agenda for acknowledgment by the governing body at each regular meeting.

3. Applicability to Public Trusts

A. For all public trusts created pursuant to Title 60 O.S., Sections 176-180, for which the City is the sole beneficiary and for which the trust's board of trustees is comprised entirely of members of the City's City Commission, all sections of this ordinance shall apply.

B. For the purposes of public trusts as defined above, City Clerk shall mean Trust Secretary as defined by the trust indenture.

A. Except as provided in subsections B and C of this Section, on every invoice submitted to the City, for payment to an architect, contractor, engineer or supplier of material of Twenty-five Thousand Dollars (\$25,000.00) or more shall be the following signed and notarized statement:

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this invoice or claim is true and correct. Affiant further states that the (work, services or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other thing of value to obtain payment of the invoice or procure the contract or purchase order pursuant to which an invoice is required.

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Subscribed and sworn to before me this ____ day of ____, 200_. Notary

Public (or Clerk or Judge)

A notarized statement of non-collusion shall not be required on purchase orders to procure materials and equipment, provided this provision shall not exempt the requirement for a notarized statement of non-collusion on invoices for services or materials and equipment.

B. When the City executes a contract with any architect, contractor, supplier or engineer for work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, the City may require that the architect, contractor, supplier or engineer complete a signed and notarized affidavit in substantial form as provided by subsection A of this Section which shall apply to all work, services or materials completed or supplied under the terms of the contract and shall be in lieu of all individual affidavits for each invoice submitted in relation to such contract as required in subsection A of this Section.

C. In lieu of the affidavit required in subsection A of this Section, the following procedures may be used:

1. A purchase order issued by the City shall require the signature of the vendor and include a notice to the vendor that the vendor's submission of the signed invoice or acceptance of payment pursuant to the purchase constitutes a statement by the vendor that:

- a. the invoice or claim is true and correct,
- b. the work, services or materials as shown by the invoice or claim have been completed or supplied in accordance with the plans, specifications, orders or requests furnished the vendor, and
- c. the vendor has made no payment, directly or indirectly, to any elected official, officer or employee of this state or any county or local subdivision of the state, of money or any other thing of value to obtain payment;

2. Any vendor who submits the signed invoice or accepts payment pursuant to a purchase order containing the notice provided for in paragraph 1 of this subsection shall be deemed to adopt and affirm the statement contained in the notice unless the vendor states on the invoice that the statement is incorrect in whole or in part; and

3. The City may recover from the vendor the full amount paid pursuant to the purchase order if the statement adopted and affirmed by the vendor is false.

Section 7-108 STREET AND ALLEY FUND; PROVIDING FOR LAWFUL EXPENDITURES

A. Created. There is hereby recognized a Street and Alley Fund ("Fund"). All monies received from the state under the motor fuel tax or under the motor vehicle license and registration tax shall be placed into the Fund upon receipt.

B. Authorized Expenditures. Monies contained in the Fund may be expended for labor, materials, supplies and/or equipment necessary for the construction, maintenance, repair, improvement, or lighting of the streets and alleys, but shall not include salaries or wages of city employees. The term "street" shall be defined as provided by Section 1-102.22. Authorized expenditures may include the purchase of labor, materials, supplies and/or equipment as defined hereinabove necessary for the entire width of the street, alley or public ways in which the City has an interest, to include all drainage structures.

DIVISION 2

COMPETITIVE BIDDING

Section 7-109 PURPOSE AND EFFECT.

The primary purpose of Division 2 of this Article is to codify in the Cherokee Municipal Code, 2014, the essential statutory requirements of the Competitive Bidding Act of 1974 (Title 61, Section 101 et seq. of the Oklahoma Statutes and the essential requirements of the Title 60, Section 1076 H, known as competitive bidding requirements of the "Public Trust Law." A secondary but equally important purpose of this Division is to establish local competitive bidding procedures, which procedures

are guidelines, but not requirements, to be considered for use during those times that neither the Competitive Bidding Act of 1974 nor any other state law requires competitive bidding. In that state law does not require municipalities to competitively bid professional services or the purchase of equipment, materials and supplies, in order to "fill the gap" and thereby reduce the potential for improprieties, these local competitive bidding procedures are adopted. Since such local competitive bidding procedures are merely guidelines, with respect to any individual purchase, the procedures may be followed or waived. The City Commission may waive compliance with the local competitive bidding procedures, which waiver may often occur due to advantageous conditions in the marketplace or for such other reasons as listed in this Division. However, in each and every instance of such waiver under this Division, the City Manager or his designee shall certify in writing the reason for the waiver as provided by Section 7-114 and the City Commission shall approve such waiver. In addition, since these local competitive bidding procedures are discretionary and not mandatory, no resident, competing vendor or seller, or any other person, firm or corporation, may secure a temporary restraining order, injunction (temporary or permanent), or sue for damages, costs, or attorney fees, based on the Mayor and/or City Commission's waiver of competitive bidding, or any other failure to follow the procedure contained herein, unless such person proves that a violation of federal or state law has occurred.

SECTION 7-110 DEFINITIONS.

For the purposes of this Division, the following terms, phrases, words and their derivations shall have the meaning given herein:

1. "City" means this City and means the City government in all its forms, including not only the City departments but also any agency, the City Council, or other persons or entities acting for or on behalf of the City.

2. "Emergency" means the conditions resulting from a sudden unexpected happening or unforeseen occurrence or a condition and situation wherein the public health or safety is in endangered;

3. "Public construction contract" or "contract" for purposes of Section 7-111 and the Public Competitive Bidding Act of 1974,

as amended (hereinafter the "Act"), shall mean any contract, exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract, as defined by Title 61, Section 102.5 of the Oklahoma Statutes as amended, exceeding Fifty Thousand Dollars (\$50,000.00) in amount, awarded by the City or any of its public trust authorities for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on to same, except where the improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority vote of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

4. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or adapt it to new or future purposes. The term does not include the direct purchases of materials, provided the materials are not purchased in increments for an amount less than Fifty Thousand Dollars (\$50,000.00) and used for the purposes of completing a single project, equipment or supplies by the City or any of its public trust authorities or personal property as defined herein.

5. "Personal property" for purpose of this Division shall include but not be limited to:

a. Portable, or otherwise moveable, buildings and structures;

b. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;

c. Roofs placed over existing roof structures; provided, lease purchase of retrofit metal roofs shall be awarded by competitive bids and the City shall comply with the Act where the total payment of principal and interest provided by the lease-purchase contract are anticipated to exceed Twenty-five Thousand

Dollars; and

2021 Codification 101321

d. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

6. "Supplies" mean and include all property except real property, materials and equipment that the City acquires for its use or consumption.

Section 7-111 OKLAHOMA PUBLIC COMPETITIVE BIDDING ACT

A. Unless otherwise provided by law, all public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract, as defined by Title 61, Section 102.5 of the Oklahoma Statutes as amended, exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by free and open competitive bidding after solicitation for sealed bids, in accordance with the terms of the Public Competitive Bidding Act of 1974, 61 Okla. Stat. 101, et seq. or as hereafter amended by the State Legislature. No work shall be commenced until a written contract is executed and all required bonds and insurance have been provided by the contractor to the city.

B. Notwithstanding subsection A of this section, in awarding public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or construction management trade contracts or subcontracts exceeding Fifty Thousand Dollars (\$50,000.00), the City and its public trust authorities may provide for a local bid preference of not more than five percent (5%) of the bid price if the awarding public agency determines that there is an economic benefit to the local area or economy. Provided, however, the local bidder or contractor must agree to perform the contract for the same price and terms as the bid proposed by the nonlocal bidder or contractor. Any bid preference granted hereunder must be in accordance with an established policy adopted by the governing body of the awarding public agency to clearly demonstrate the economic benefit to the local area or economy. Provided, further, no local bid preference shall be granted unless the local bidding entity is the second lowest qualified bid on the contract. The bid specifications shall clearly state that the bid is subject to a local bidder preference law. For purposes of this section, "local bid" means the bidding person is authorized to transact business in this state and maintains a bona fide establishment for transacting such business within this state. This provision does not apply to any construction contract for which federal funds are available for expenditure when its provisions may be in conflict with federal law or regulation.

C. Other construction contracts for the purpose of making any public improvements or constructing any public building or

making repairs to the same for One Hundred Thousand Dollars (\$100,000.00) or less shall be let and awarded to the lowest responsible bidder by receipt of written bids or awarded on the basis of competitive quotes to the lowest responsible qualified contractor. Work may be commenced in accordance with the purchasing policies of the City or public authority.

D. Other construction contracts for less than Ten Thousand Dollars (\$10,000.00) may be negotiated with a qualified contractor. Work may be commenced in accordance with the purchasing policies of the public agency.

E. The City or its public authorities shall not let or award a public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or a construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated with a purchasing cooperative unless the purchasing cooperative and the contractor have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including but not limited to open competitive bidding after solicitation for sealed bids. The City or its public authorities shall not let or award a public construction contract exceeding Ten Thousand Dollars (\$10,000.00) up to One Hundred Thousand Dollars (\$100,000.00) to any contractor affiliated with a purchasing cooperative unless the purchasing cooperative and the contractor have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including submission of a written bid upon notice of competitive bidding.

F. A purchasing cooperative and its affiliated contractors shall not be allowed to bid on any public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing cooperative and its affiliated contractors have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including but not limited to open competitive bidding after solicitation for sealed bids. A purchasing cooperative and its affiliated contractors shall not be allowed to bid on any public construction contract exceeding Five Thousand Dollars (\$5,000.00) unless the purchasing cooperative and its affiliated contractors have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including submission of a written bid upon notice of open competitive bidding.

G. For public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00), Department heads or third-party contractors shall prepare bid specifications along with requisitions and submit same to the City Council for their approval.

H. The City Clerk will develop a bidder's list. Bid solicitations will be made equally and uniformly known to all prospective bidders and the public:

1. For public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) notice will be mailed twenty (20) days prior to the bid opening date to prospective bidders who have made known, in writing, to the using agency their interest in bidding within twelve (12) months immediately preceding the date of opening the bids;

2. For public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00), notice will be published in two (2) consecutive issues of a newspaper of general circulation twenty (20) days prior to the bid opening date; and

3. For public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) notice will be sent to trade or construction publications.

I. One complete set of bid documents will be kept on file in the City Clerk's office twenty (20) days prior to the bid opening date. Copies may be obtained by prospective bidders after paying a reasonable deposit as set by the City Manager.

J. A bidder on a public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) will accompany the bid with:

1. A certified or cashier's check or bid bond or irrevocable

letter of credit in an amount equal to five percent (5%) of the bid, which shall be deposited with the Town as a guaranty; or

2. An irrevocable letter of credit containing terms the Department of Central Services prescribes, issued by a financial institution insured by the Federal Deposit Insurance Corporation for the benefit of the state, on behalf of the awarding publicagency, in an amount equal to five percent (5%) of the bid. The City shall deposit the irrevocable letter or credit with the Department of Central Service.

The cost of republication of the notice to bidders, actual expenses incurred by reason of the bidder's default and the difference between the low bid of the defaulting bidder and the amount of the bid of the bidder to whom the contract is subsequently awarded, but not to exceed the amount of the certified check, bid bond or irrevocable letter of credit may, at the discretion of the City, be forfeited to the City in the event the apparently successful bidders fails to execute the contract or fails to provide the required bonds or irrevocable letters of credit and insurance to the City.

K. A non-collusion affidavit and a business relationship affidavit shall also accompany bidder proposals.

L. Any bid received by the City or an officer and employee thereof, more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for the opening of the bids, or any bid so received after the time set for opening of the bids, shall not be considered by the City and shall be returned unopened to the bidder submitting the same.

M. All bids shall be sealed and opened only at the time and place mentioned in the bid Section and read aloud in the presence of an administrative officer of the City. Such bid openings shall be open to the public and to all bidders.

N. Except as otherwise provided by law, within such period of time, not to exceed sixty (60) days, as shall be specified in the bid notice by the City, a contract embodying the terms set forth in the bidding documents shall be executed by the City and the successful bidder. No bidder shall obtain any property rights in a contract awarded under the provisions of the Public Competitive Bidding Act of 1974 until the contract has been fully executed by both the bidder and the City.

O. Bonds, irrevocable letters of credit and insurance as provided by Section 113 of Title 61 of the Oklahoma Statutes, shall be provided by the successful bidder to the City.

P. If an award is made to other than the lowest bidder, the City shall accompany its action with a publicized statement setting forth the reason for its action. Such statement shall be placed on file, open to public inspection and be a matter of public record.

Q. All invoices submitted for work performed shall be accompanied by a sworn certification by the architect or engineer that the work has been completed in accordance with specifications.

R. The City Council by a majority vote may reject any and all bids and rebid the project if the public interest would be better served.

S. If no timely bid is received on any public construction contract not exceeding One Hundred Thousand Dollars (\$100,000.00) or any proposed construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00), the City Council may direct the City Manager to negotiate a contract with the prospective bidder. The amount of the contract which may be awarded by the governing body pursuant to this Section shall not exceed One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) and the work to be performed shall be as specified in the initial bidding documents. The contract shall be executed within six (6) months after the date initially set for opening of bids. The contract and contract procedure shall conform to all the other applicable provisions of the Public Competitive Bidding Act of 1974.

T. The City shall return the certified or cashier's check, bid bond, or irrevocable letter of credit to the successful bidder on execution and delivery of the contract and required bonds or irrevocable letters of credit and insurance. Checks of unsuccessful bidders shall be returned at them in accordance with the terms of the bid solicitation.

U. Nothing herein shall be construed so as to prevent the City or the courts from exonerating the bidder and other parties to the bid security document from liability upon a timely showing

that the bidder committed what the courts have determined under the common

law to be an excisable bidding error and for that reason it would not be equitable to enforce the bid security.

V. Change Orders.

1. Change orders or addenda to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

2. Change orders or addend to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

3. Change orders or cumulative change orders which exceed the limits of Subsection V1 and V2 of this Section shall require a re-advertising for bids on the incomplete portions of the contract.

4. If a construction contract contains unit pricing, and the change order pertains to the unit price, the change order will not be subject to Subsection V1 and V2 of this Section.

5. When the unit price change does not exceed Ten Thousand Dollars (\$10,000.00), the unit price change order computation may be based on an acceptable unit price basis in lieu of the following cost itemization, which shall be performed as follows in all other incidents.

Such change orders shall contain a unit price and a total for each of the following items:

- a. All materials with cost per item;
- b. Itemization of all labor with number of hours per operation and cost per hour;
- c. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;

- d. Itemization of insurance cost, bond cost, social security, taxes, workers; compensation, employee fringe benefits and overhead cost;
- e. Profit for the contractor.

Section 7-112 CHEROKEE DEVELOPMENT AUTHORITY

In addition to the requirements provided in Section 7-111 hereinabove, Contracts for construction, labor, equipment, materials or repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be awarded by the public trust authorities to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published at least once a week for two (2) successive weeks in a newspaper of general circulation in Alfalfa County; such advertisement shall also appear in the county where the work, or the major part if it is to be done, or the equipment or the materials are to be delivered, or the services to be rendered. Provided, however, should the trustee or trustees of the public trust authorities find that an immediate emergency exist, which finding shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) is necessary in order to avoid loss of life, substantial damage to property or damage to the public peace or safety, then such contracts may be made and entered into without public notice or competitive bid. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

Section 7-113 FORMAL CONTRACT PROCEDURE

A. Except as provided by this Division, all expenditures for supplies, materials, equipment or contractual services, when the estimate cost thereof will exceed Fifty Thousand Dollars (\$50,000.00) shall be purchased by formal written contract or purchase order from the lowest secured bidder after due notice inviting proposals, except that in cases where the prices bid are higher than prices available under contract let by the State of Oklahoma or a division, branch or agency of the United States of America, the city shall exercise the option of awarding its own contract or of buying it under the terms of the state or federal contract.

B. The city clerk shall cause to be published notice inviting bids in the daily newspaper of the city, at least once, three (3) days preceding the last day set for the receipt of proposals. The newspaper notice required herein, shall include a general description of the services required or the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

C. When deemed necessary by the City Commission, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of the surety where it has been required. The successful bidder shall forfeit any surety required upon failure on his part to enter into a contract within twenty (20) days after the award.

D. Bid opening procedures are as follows:

1. The bid shall be submitted sealed to the office of the city clerk, and shall be identified as "bids" on the envelope;

2. Bids for supplies, materials, equipment or contractual services shall be opened by the city clerk at the time and place stated in the public notices. Such bid opening shall be open to the public and to all bidders; and

3. A tabulation of all bids received shall be made by the city clerk or appropriate department head, and the tabulation shall be available for public inspection in the office of the city clerk.

E. The City Commission shall have the authority to reject all bid or parts of all bids, included in the proposed contract, when the public interest would be served thereby. The city shall not accept the bids of a contractor who is in default on the payment of taxes, license or other monies due the city.

F. Procedure for award of contracts is as follows:

1. The City Commission shall have the authority to award contracts within the purview of this Section;

2. Contracts shall be awarded to the lowest secure bidder. In determining "lowest secure bidder", in addition to price, the following factors shall be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or to provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- d. The quality of performance of previous contracts for services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to contract or service;
- g. The quality, availability and adaptability of the supplies or the contractual services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contracts; and
- I. The number and scope of conditions attached to the bid;

3. When the award is not given to the lowest bidder, a full and complete statement of reasons for placing the order elsewhere shall be prepared by the city clerk and shall be a public record;

4. If two (2) or more bids received are for the same total amount of unit price, quality and service being equal, the contract should be awarded to the local bidder;

5. The City Commission shall have the authority to require a performance bond, before entering into the contract, in such amount as the City Commission shall find reasonably necessary to protect the best interest of the city;

6. No contract or purchase shall be subdivided to avoid the requirements of this article;

7. If no timely bid is received after bid notices have been published on any supplies, materials, equipment or contractual services whose estimated cost Fifty Thousand Dollars (\$50,000.00), the City Commission may direct the City Manager to negotiate a

contract with a prospective supplier or contractor; sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of such order.

8. The City Commission may waive the requirement to solicit for bids and may allow for written or oral quotations or take such other action, necessary in the public interest, as they deem necessary.

Section 7-114 WAIVER OF COMPETITIVE BIDDING

The City Commission may waive the requirement for competitive contractual bidding for the purchase of supplies, materials, equipment or contractual services (other than contracts required to be bid pursuant to Section 7-111 and Section 7-112) when (I) some material feature or characteristic of the item or service sought to be purchased is unique, (ii) the item or service is available from only one source or (iii) for any reason should same be deemed necessary in the public interest, and the City Manager or his designee certify in writing such specific facts or reasons for the waiver. A full and complete statement of the reasons for approving such waiver of competitive bidding shall be entered in the minutes of the City Commission. Nothing in this subsection shall be construed to prohibit emergency purchases made in accordance with Section 7-116 of this Division.

Section 7-115 ENCUMBRANCE OF FUNDS

Except in cases of emergency or as otherwise provided herein, no officer or employee shall issue any order for delivery on a contract or purchase order until the city clerk shall have certified that there is to the credit of the using agency concerned sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of such order.

Section 7-116 EMERGENCY PURCHASES

The provisions of this Division with reference to notice and bids shall not apply to an emergency if:

1. The City Council declares by a two-thirds (2/3) majority vote of all of its members that an emergency exists; or

2. The City Manager, without a governing body, declares that an emergency exists; provided however, the City Manager's

authority to declare an emergency whereby the provisions in reference to notice and bids shall not apply is limited to contracts less than One Hundred and Fifty Thousand Dollars (\$150,000.00) in amount. The City Manager shall notify the City Council withinten (10) days of the declaration of an emergency if the City Council did not approve the emergency. The notification shall contain a statement of the reasons for the action and shall be recorded inthe official minutes of the City Council. For purpose of this section, the term "Emergency" shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered. The City Manager shall report an emergency withinten (10) days of the emergency declaration and include the official minutes of the City Council, to the State Construction Administrator of the Construction and Properties Division of the Office of Management and Enterprise Services.

Section 7-117 PROFESSIONAL SERVICES

A. All professional services where the estimated cost will exceed Fifty Thousand Dollars (\$50,000.00), the City Commission may direct that the same be purchased by formal written contract after due notice inviting proposals, from the proposer whose services are determined to be in the best interest of the city, except those services or situations specifically exempted by the City Commission.

B. Professional services shall include, but are not limited to, the following disciplines:

1. Appraisal services;
2. Architectural services;
3. Consulting services;
4. Engineering services;
5. Financial services;
6. Accounting and auditing services;
7. Health insurance services;

8. Photographic, art or marketing services; and
9. Testing and inspection services.

C. Specifications for professional services to be procured shall include:

1. Instructions to the prospective proposer specifying when, to whom and where proposals should be sent;

2. A complete technical description of the problem or work task; further the specification shall specify whether written questions can be sent to the city and whether a bidder's conference will be held to answer any questions;

3. An objective or statement of what is expected to be accomplished;

4. Scope of work or task and the extent to which the city staff will be available to assist the contractor;

- a. For submission of progress reports; and
- b. For completion of tasks;

5. Term or estimated time schedule including:

- a. Dates for commencement or performance;
- b. For the submission of progress reports;
- c. For completion of tasks;

6. Selection criteria;

7. Standard contract terms and conditions; and

8. Understanding for compensation and rate for additional work authorized.

D. The City Commission shall have the right to negotiate any and all professional service contracts with the successful proposer. Such negotiation may include limiting or enlarging the scope of work, changing any terms and conditions where necessary

or negotiating the compensation to be paid. The City Commission may base their selection decision on the following:

1. Experience of the proposer on similar projects;
2. The qualifications of the proposer;
3. The ability of the proposer to meet the work schedule;
4. The completeness of the project approached;
5. The geographic location of the proposer;
6. Samples of work representing quality;
7. Additional services and skills available;
8. Work space requirements or city staff support; and
9. The overall proposer's cost.

ARTICLE 2

SALES TAX

Section 7-201 CITATION AND CODIFICATION

This chapter shall be known and may be cited as "City of Cherokee Sales Tax Ordinance."

State Law Reference: Authority to levy (sales) taxes for municipal purposes, 68 O.S. Section 2701; 68 O.S. Section 1350 et seq.

Section 7-202 DEFINITIONS

A. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes, and in Sections 576 and 593 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.

B. A sale shall include the sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served

for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or otherwise occurs.

C. The definition of "gross receipts" in the State Sales Tax Code is hereby augmented to contain the additional following words: "The total retail sale price received for the sale, preparation or service of mixed beverages, ice and non-alcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs shall constitute the gross receipts from such transaction."

Section 7-203 TAX COLLECTOR DEFINED

The term "tax collector" as used in this Article means the department of the city or the official agency of the state duly designated according to law or contract and authorized by law to administer the collection of the tax levied in this Article.

Section 7-204 CLASSIFICATION OF TAXPAYERS

For the purpose of this Article the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

Section 7-205 SUBSISTING STATE PERMITS

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

Section 7-206 EFFECTIVE DATE

This Article became effective as to each cent tax after approval of majority of the registered voters of the city voting on the ordinance in the manner prescribed by Section 16-112 of Title 11 of the Oklahoma Statutes.

Section 7-207 PURPOSE OF REVENUES

A. Ordinance No. 1242. There is hereby levied an excise/sales tax of one per cent (1%) upon the gross proceeds or

gross receipts derived from all sales taxable under the sales tax laws of the State of Oklahoma, as now constituted, or as may be constituted in the future and/or as provided in this municipal code. It is declared to be the purpose of Ordinance No. 1242 to provide revenues for the support of the functions of the municipal government of the City of Cherokee, Oklahoma.

Note: Ordinance 1242 was approved by the City Council of the City of Cherokee, Oklahoma, on March 24, 1970. Ordinance No. 1242 was approved at an election called for that purpose on May 1, 1970.

B. Ordinance No. 1482. There is hereby levied an excise/sales tax of one per cent (1%) upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of the State of Oklahoma, as now constituted, or as may be constituted in the future and/or as provided in this municipal code. It is declared to be the purpose of Ordinance No. 1482 to provide revenues for the support of the functions of the municipal government of the City of Cherokee, Oklahoma.

Note: Ordinance 1482 was approved by the City Council of the City of Cherokee, Oklahoma, on October 17, 1978. Ordinance No. 1482 was approved at an election called for that purpose on January 1, 1979.

C. Ordinance No. 1627. There is hereby levied an excise/sales tax of one per cent (1%) upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of the State of Oklahoma, as now constituted, or as may be constituted in the future and/or as provided in this municipal code. The revenues generated by such additional one percent (1%) sales/excise tax shall be paid as received to the City of Cherokee Special Park and Street Fund, which will be a separate fund apart and distinct from any item of the General Fund, to be used for the purpose of acquiring, constructing, extending, and equipping additions and improvements to the park and street systems of the City of Cherokee; the costs of planning, constructing, renovating, expanding and improving these park and street systems, including but not limited to, the costs of feasibility studies, land acquisition and easements; the cost of capital expenditures made to improve the park and street systems including the purchase of equipment or furnishings, the payment of operation and maintenance expenses of the park and street systems; or for any other lawful

purpose of the Park and Street Fund; provided that none of the proceeds of such additional tax shall ever be paid or transferred to the General Fund of the City of Cherokee not shall such proceeds be used for any purpose, except as authorized above, other than operation and improvement of the park and street systems of the City of Cherokee; and further provided that no money will be spent from the special fund for other than capital improvements, which shall include major repairs and new construction on parks and streets, unless that proportion of the City's General Fund used on parks and streets in addition to the money provided by this sales tax is at least twenty percent (20%) of the total General Fund Budget for that year.

Note: Ordinance 1627 was approved by the City Council of the City of Cherokee, Oklahoma, on September 14, 1983. Ordinance No. 1627 was approved at an election called for that purpose on December 1, 1983.

D. Citations and Codification. This Ordinance shall be known and may be cited as the City of Cherokee Sales Tax Ordinance of 2019, and the same shall be codified and incorporated into the Code of Ordinances of the City of Cherokee, Oklahoma (the "City") as Section 7-207D.

1. Tax Imposed. There is hereby imposed an excise/sales tax of one quarter of one percent ($\frac{1}{4}$ of 1%) (in addition to any and all other excise/sales taxes now in force; provided that said excise/sales tax shall replace and supersede a one quarter of one percent ($\frac{1}{4}$ of 1%) excise/sales tax presently being levied pursuant to Ordinance No. 2005-2287 of the City of Cherokee, Oklahoma) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code.

2. Purpose of Revenues. It is hereby declared to be the purpose of this Ordinance and the excise/sales tax levied hereunder to provide revenues to be used by the City, to fund the Cherokee Fire Department and the Cherokee Police Department, including but not limited to revenue used for equipment, vehicles, training, related salary and other labor costs and School Resource Officer.

3. Effective Date and No Stated Termination Date. The provisions of this Ordinance and the collection of the excise/sales tax referenced herein shall become effective on and

after October 1, 2019, subject to approval by a majority of the qualified electors of the City of Cherokee, Oklahoma, voting on the same in the manner prescribed by law. The provisions of this Ordinance and the collection of the excise tax referenced herein shall have no stated termination date.

4. All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this Ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

5. The tax herein levied shall be paid to the Tax Collector at the time and in the manner and form prescribed for payment of the state sales tax under the State Tax Law of the State of Oklahoma.

6. The tax levied hereby is in addition to any and all other excise/sales taxes levied or assessed by the City (except as provided in Section 2 hereof with respect to the replacement of the one quarter of one percent (1/4 of 1%) excise/sales tax levied pursuant to Ordinance No. 2005-2287) pursuant to existing City Ordinances (the "Existing Ordinances"); provided, however, that those provisions, if any, of said Existing Ordinances relating to Definitions; Tax Collector Defined; Classification of Taxpayers - Permit to Do Business; Subsisting State Permits; the portion of Tax Rate - Sales Subject to Tax, pertaining to Sales Subject to Tax (not rate of Tax); The Provisions of said Existing Ordinances regarding Exemptions and Other Exempt Transfers; The Provisions of said Existing Ordinances regarding Tax Due When-- Returns-- Records; The portion of said Existing Ordinances regarding tax constituting debt; Vendor's Duty to Collect Tax; Returns and Remittances - Discounts; Interest and Penalties-- Delinquency; Waiver of Interest and Penalties; Erroneous Payments-- Claim for Refund; Fraudulent Returns; and Records Confidential shall apply to the excise tax levied and assessed by this Ordinance. For purposes of this Ordinance, references in said Existing Ordinances, to specific provisions of the Oklahoma Statutes shall be deemed to be references to said statutory provisions, as amended.

7. The people of the City of Cherokee, Oklahoma, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make

such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate of the tax herein provided for shall not be changed without approval of the qualified electors of the City as provided by law.

8. The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

9. This Ordinance hereby ratifies and approves the levy and collection of the excise tax levied pursuant to Ordinance No. 2005-2287 subsequent to June 30, 2011 and prior to the effective date of this Ordinance, and further ratifies and approves the use of said excise tax during said period for those purposes set forth in Ordinance No. 2005-2287.

10. 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.

Section 7-208 TAX IMPOSED; AMOUNT

A. There is hereby levied an excise tax in the amount of three and one quarter of one percent (3 1/4%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, as provided in the previous Section, including but not exclusive of the following:

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, and associated delivery or transmission services, except water, sewage and refuse and those specifically exempt pursuant to the provisions of 68 O.S. §1357;

3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, Pullman car companies, airlines, and other means of transportation for hire, excluding:

- a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and
- b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, all mobile telecommunications services that are sourced to this state pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 116-126, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Provided:

- a. the term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following: (1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail, (2) any interstate telecommunications service which is: (a) rendered by a company for private use within its

organization, or (b) used, allocated, or distributed by a company to its affiliated group, or (3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service, and

- b. the term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which: (1) entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or (2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and c. the term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

8. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which pre-written programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of 68 O.S. § 1357;

11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this Section;

19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

- a. the operation of the business,
- b. the nature of the business,
- c. the turnover of independent contractors,
- d. the lack of place of business in which to display a permit or keep records,
- e. lack of adequate records,
- f. the fact that the persons are minors or transients,
- g. the fact that the persons are engaged in service businesses, or
- h. any other reasonable reason;

20. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and

subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

21. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

Section 7-209 EXEMPTIONS; SALES SUBJECT TO OTHER TAX

There is hereby specifically exempted from the tax levied by this Article the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code inclusive, but not exclusive of, and derived from the:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of Title 68 of the Oklahoma Statutes has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of Title 68 of the Oklahoma Statutes has been, or will be paid;

3. Sale of crude petroleum or natural or casing head gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of Title 68 of the Oklahoma Statutes. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of Title 68 of the Oklahoma Statutes has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes;

8. Sales of cigarettes or tobacco products to:

- a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of Title 68 of the Oklahoma Statutes or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or
- b. a federally recognized Indian tribe or nation or to a

licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of Title 68 of the Oklahoma Statutes has been paid; and

9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of Title 68 or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes.

Section 7-210 TAX DUE WHEN; RETURNS; RECORDS

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the Oklahoma Sales Tax Code.

Section 7-211 PAYMENT OF TAX; BRACKETS

A. The tax herein levied shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax.

B. The bracket system for the collection of the city sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the city and the tax collector, in the collection of both the city sales tax and the state sales tax.

Section 7-212 EXEMPTIONS-GOVERNMENTAL AND NONPROFIT ENTITIES

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract

with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of

entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the City Commission organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher

Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes. Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this Section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public-school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization. The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the

State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H City Commissions,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers. The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this Section shall be deemed guilty of a misdemeanor and upon

conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c) (3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501 (c) (3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,

- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community-based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501 (c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited

by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of Title 68 of the Oklahoma Statutes shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state

for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "Section 38 property" as defined in Sections 48(a)(1)(A) and (B)(I) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, Section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any

space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "Section 38 property" as defined in Sections 48(a)(1)(A) and (B)(I) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education; and

41. Sales of tangible personal property or services for use on campus construction projects for the benefit of institutions of The Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the

provisions of the Internal Revenue Code, 26 U.S.C. 501 (c) (3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C. 513(I). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes.

State Law Reference: Similar provisions, 68 O.S. Section 1305.

Section 7-213 SAME-GENERALLY

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in Section 1350 et seq. of Title 68 of the Oklahoma Statutes. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of Title 68 of the Oklahoma Statutes. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common

carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of Title 68 of the Oklahoma Statutes, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of Title 68 of the Oklahoma Statutes, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of Title 68 of the Oklahoma Statutes, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption

shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which: a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), and which are primarily involved in the collection and distribution of food and other household products to other organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code,

26 U.S.C. 501(c)(3), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this Section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in

diverse geographical locations specified by the subscriber, or

- b. entitles the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C. 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing: a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or

consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

23. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

24. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

25. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;

26. Beginning July 1, 2000, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification

and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than twelve thousand five hundred (12,500) pounds and less than one hundred thousand (100,000) pounds and which aircraft are brought into this state exclusively for such repairs or modification. The exemption provided by this paragraph shall be limited to repairs or modifications made by a new or expanded aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of Title 68. The term "new or expanded aircraft repair facility" shall mean any new or expanded facility which repairs, modifies or replaces aircraft parts in which more than Four Million Dollars (\$4,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after January 1, 1999; and

27. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

- a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
- b. enter into and become component parts of the ship, motor vessel or barge.

Section 7-214 SAME-MANUFACTURERS

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 500.4 of Title 68 of the Oklahoma Statutes;

3. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. Additionally, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

4. Sales of or transfers of title to or possession of any containers, after June 30, 1987, used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain beverages defined by paragraphs 4 and 14 of Section 506] of Title 37 of the Oklahoma Statutes, or water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

5. Sale of tangible personal property when sold by the manufacturer to a person who transports it to a state other than Oklahoma for immediate and exclusive use in a state other than Oklahoma. Provided, no sales at a retail outlet shall qualify for the exemption under this paragraph;

6. Machinery, equipment, fuels and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Oklahoma Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination. The term "hazardous" waste may include low-level radioactive waste for the purpose of this paragraph;

7. Sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing

facility or to expand an existing manufacturing facility. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this paragraph, "qualified manufacturer" means:

- a. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility,
- b. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this paragraph exceeds the sum of Fifty Million Dollars (\$50,000,000.00) and in which at least seventy-five (75) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility, or
- c. any enterprise whose total cost of construction of an expanded facility exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) and in which the manufacturer has and maintains an average employment level of at least one thousand seven hundred fifty (1,750) full-time-equivalent employees, as certified by the Employment Security Commission. For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. For purposes of subparagraph c of this paragraph, the total cost of construction shall also include the

cost of qualified depreciable property as defined in Section 2357.4 of Title 68 of the Oklahoma Statutes and labor services performed in the construction of an expanded facility. The employment requirement of this paragraph can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility as long as both facilities are owned by one person or business entity. For purposes of this Section, "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this paragraph;

8. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or

equipment required by Federal Communications Commission rules and regulations;

9. Sales of tangible personal property purchased or used by a licensed cable television operator in cable casting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cable casting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

10. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold to a producer of agricultural products. This exemption shall not apply to the sale of any packaging material which is ordinarily known as a returnable container;

11. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this paragraph shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings;

12. Deposits or other charges made and which are subsequently refunded for returnable cartons, crates, pallets, and containers used to transport cement and cement products;

13. Beginning January 1, 1998, machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state; and

14. Deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms or mushroom products from a farm for resale to the consumer or processor.

Section 7-215 SAME-AGRICULTURE

The gross receipts of gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted for the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

- a. farm, orchard or garden products, and
- b. dairy products sold by a dairy producer or farmer who owns all the cows from which the dairy products offered for sale are produced; provided, the provisions of this paragraph shall not be construed as exempting sales by florists, nursery operators or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

2. Livestock, including cattle, horses, mules or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;

4. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:

- a. feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption,
- b. feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or

other domestic or draft animals used directly in the producing and marketing of agricultural products, and

- c. any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies. "Poultry" shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs. "Livestock" shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Oklahoma Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;

5. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:

- a. sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching,
- b. sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. In addition to providing the vendor proof of eligibility as provided in Section 1358.1 of this Title 68 of the Oklahoma Statutes, the purchaser shall provide the name or names of such owner or lessee and operator and the location of the lands on which said materials are to be applied to each such land,
- c. sales of agricultural fertilizer, pharmaceuticals and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this article, and said sales shall not be considered to

be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this Section, "agricultural fertilizer", "pharmaceuticals" and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals,

- d. sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This Section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens, and
- e. sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this subparagraph, "agricultural chemical pesticides" shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. The exemption provided in this paragraph shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products;

6. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands. The exemption specified in this paragraph shall apply to such farm machinery, repair parts or fuel, oil, lubricants and other substances used by persons engaged in the business of custom production, cultivation, planting, sowing, harvesting, processing, spraying, preservation, or irrigation of any livestock, poultry, agricultural, or dairy products for farmers or ranchers. The

exemption provided for herein shall not apply to motor vehicles;

7. Sales of supplies, machinery and equipment to persons regularly engaged in the business of raising evergreen trees for retail sale in which such trees are cut down on the premises by the consumer purchasing such tree. This exemption shall only be granted and extended when the items in fact are used in the raising of such evergreen trees; and

8. Sales of materials, supplies and equipment to an agricultural permit holder or to any person with whom the permit holder has contracted to construct facilities which are or which will be used directly in the production of any livestock, including, but not limited to, facilities used in the production and storage of feed for livestock owned by the permit holder. Any person making purchases on behalf of the agricultural permit holder shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such permit holder and set out the name and permit number of such holder. Any person who wrongfully or erroneously certifies that purchases are for an agricultural permit holder or who otherwise violates this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of an amount equal to double the amount of sales tax involved or imprisonment in the county jail for not more than sixty (60) days or by both such fine and imprisonment.

B. As used in this Section and Section 1358.1 of Title 68 of the Oklahoma Statutes:

1. "Agricultural products" shall include horses; and

2. "Ranching" or "ranch" shall include the business, or facilities for the business, of raising horses. Provided, sales of items at race meetings as defined in Section 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt pursuant to the provisions of this Section and Section 1358.1 of Title 68 of the Oklahoma Statutes.

State Law Reference: Similar provision, 68 O.S. Section 1305a.

Section 7-217 TAX CONSTITUTES DEBT; CITY SALES TAX SUBJECT TO
OTHER TITLE 68 PROVISIONS

The taxes, penalty and interest due under this chapter shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt. Moreover, Title 68 of the Oklahoma Statutes as it relates to all sales tax is hereby adopted by reference as if fully set out, as is hereby amended as such state laws are amended and is applicable to all municipal sales tax issues.

Section 7-218 VENDOR'S DUTY TO COLLECT TAX; PENALTIES

A. The tax is levied hereunder shall be paid by the consumer or user to the vendor. It is the duty of each and every vendor in this city to collect from the consumer or user the full amount of the tax levied by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

B. Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

C. A vendor, as defined hereunder, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, by any whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

D. Any sum or sums collected or required to be collected in accordance with this chapter shall be deemed to be held in trust for the city. Any person, firm, corporation, joint venture or

association that willfully or intentionally fails, neglects or refuse to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

Section 7-219 RETURNS AND REMITTANCES; DISCOUNTS

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances of tax collected hereunder and shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of state sales tax.

Section 7-220 INTEREST AND PENALTIES; DELINQUENCY

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if the delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this chapter.

Section 7-221 WAIVER OF INTEREST AND PENALTY

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes. To accomplish the purposes of this Section, the applicable provisions of Section 220 of Title 68 are hereby adopted by reference and made a part of this chapter.

Section 7-222 ERRONEOUS PAYMENTS; CLAIM FOR REFUND

Refund of erroneous payment of the city sales tax herein levied may be made to any taxpayer making the erroneous payment in the same manner and procedure, and under the same limitations of

time, as provided for administration of the state sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this Section, the applicable provisions of Section 227 of Title 68 are hereby adopted by reference and made a part of this chapter.

Section 7-223 FRAUDULENT RETURNS

In addition to all civil penalties provided by this chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to a fine as provided in Section 1-108 of this code.

Section 7-224 RECORDS CONFIDENTIAL

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared, and to protect the same the provisions of the State Sales Tax Code, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if here set forth in full.

Section 7-225 AMENDMENTS

The people of the city, by their approval of the sales tax ordinance hereby authorize the City Commission, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this chapter as may be necessary or proper for efficiency and fairness. Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the city as provided by law.

Section 7-226 PROVISIONS CUMULATIVE

The provisions of this chapter shall be cumulative and in addition to any or all other taxing provisions of city ordinances.

ARTICLE 3

TELEPHONE EXCHANGE FEE

DIVISION 1

TELEPHONE EXCHANGE FEE

Section 7-301 FEE LEVIED ON TELEPHONE EXCHANGES

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the city in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the city. The inspection fee and charge shall be due and payable to the city on or before the first day of April of each year, for the calendar year ending December 31 preceding, and shall be paid into and appropriated and expended from the general revenue fund of the city.

State Law Reference: City powers to levy utility tax on gross receipts, 68 O.S. Section 2601 et seq.

Section 7-302 FEE TO BE IN LIEU OF OTHER FEES, TAXES

During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the city.

DIVISION 2

MISCELLANEOUS TELEPHONE MATTERS

Section 7-311-

Section 7-315 RESERVED

Section 7-316 COOPERATION WITH OTHER GOVERNING BODIES

The City Manager, with approval of the governing body, is hereby authorized to cooperate with other governing bodies who may impose a similar fee and who wish to participate in the city's enhanced nine-one-one (911) emergency telephone service.

Section 7-317 FALSE ALARMS; FALSE COMPLAINTS; FALSE REPORTING

A. No person shall call the number nine-one-one (911) for the purpose of making a knowingly false alarm or complaint or reporting knowingly false information which could result in the dispatch of emergency services from any public agency as defined in Paragraph B of this Section.

B. "Public agency" means any city, town, county, municipal corporation, public district, public trust, public authority or any other entity, public or private, located within this state which provides, has authority to provide, or is licensed to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

C. The violation of this Section shall be punishable by a fine of not to exceed Five Hundred Dollars (\$500.00), plus court costs, and an assessment for the resulting costs of any dispatching of emergency personnel and equipment for each such violation.

ARTICLE 4

UTILITIES TAX

Section 7-401 FEE LEVIED; APPLICATION

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of gas in the city. Such tax shall apply to all

persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water within the city limits, except that it shall not apply to any person, firm, association or corporation operating under a valid franchise with the city nor apply to utilities furnished by the city.

State Law Reference: Authority of City Commission to levy above tax, 68 O.S. Section 2601; tax not applicable to franchise holders, 68 O.S. Section 2602.

Section 7-402 TAX IS IN LIEU OF OTHER TAXES

The tax levied by this Article shall be in lieu of anyother franchise, license, occupation or excise tax levied by the city.

Section 7-403 TAX TO BE PAID MONTHLY AND PLACED IN GENERAL REVENUE FUND

The tax levied under this Article shall be levied for a term of not less than one (1) year and shall be payable monthly and placed in the general revenue fund of the city.

Section 7-404 FAILURE TO PAY; ACTION FOR COLLECTION

Any person failing or refusing to pay the tax levied by this chapter shall be regarded as a trespasser and may be ousted from the city. In addition, thereto, an action may be maintained against such person for the amount of the tax and all expenses of collecting same, including reasonable attorneys' fees.

Section 7-405 TAX LIEN

The tax imposed by this Article shall constitute a first and prior lien on all the assets located within the city of any person engaged in the business of selling power, light, heat, gas, electricity or water within the city and subject to such tax.

Section 7-406 PERMIT GRANTED TO GAS COMPANIES IN LIEU OF FRANCHISE

Any persons, firms, associations, or corporations engaged in the business of furnishing gas within the city limits, not operating under a valid franchise from the city, and upon whom the

tax provided under Section 7-401 of this code is imposed, is hereby granted a revocable permit by the city for so long as this chapter remains in effect and the taxes are paid in accordance with the terms of this chapter to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate and maintain a system of works, pipes, pipelines, apparatus, structures and appurtenances in, across, upon and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parking, driveways, rights-of-way, utility easements, and other public ways, places, areas and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places and grounds," in the city as now constituted, and as may be added to hereafter, for the purpose of transporting, distributing and selling gas for domestic, commercial and industrial uses, and for any and all other purposes for which gas, during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues and other public ways, places and grounds of the city for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing and repairing the works, pipes, pipelines, and all necessary apparatus, machinery, structures and appurtenances.

ARTICLE 5

USE TAX

Section 7-501 DEFINITIONS.

The following words, terms and phrases when used in this Article shall have the meanings respectively given to them in this section:

"Maintaining a place of business within the state" includes any person having or maintaining in the state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other place of business. It also includes any person having agents operating in the state under authority of the retailer or subsidiary, whether the place of business or agent is within the state permanently or temporarily, or whether the person or subsidiary is authorized to do business within the state is immaterial;

"Person" shall mean and include any individual, company,

partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust, receiver, or trustee appointed by the state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;

"Purchase" means and includes any method whereby a transferee receives from a transferor either the title or possession, for a valuable consideration, of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term "purchase" also includes the exchange, barter, lease or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession to the transferee;

"Purchase at retail" means and includes all purchases except purchases made for the purpose of resale;

"Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term "purchase price" also means the consideration paid or given or contracted to be paid or given by the transferee to the transferor for the article of tangible personal property;

"Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of the article; provided, however, that when in the opinion of the Tax Commission it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors, employers or persons as retailers for purposes of this article;

"Sale" means and includes the transfer of either the title or possession for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality or

device by which such transfer is accomplished. The term "sale" also includes the exchange, barter, lease, or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession;

"Tax Commission" means the Oklahoma Tax Commission;

"Taxpayer" means any person liable to pay a tax hereunder, or charged with the collection and remission thereof, or to make a report for the purpose of claiming any exemptions in payment of any tax levied by this Article; and

"Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include the sale of that property in the regular course of business

SECTION 7-502 EXCISE TAX ON STORAGE, USE, OR OTHER CONSUMPTION OF TANGIBLE PERSONAL PROPERTY.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this municipality, tangible personal property purchased or brought into this municipality, an excise tax on the storage, use, or other consumption in this municipality of such property at the rate of three and one quarter percent (3 1/4%) of the purchase price of such property. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; personal property intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

SECTION 7-503 EXEMPTIONS AND EXCEPTIONS.

All exemptions and exceptions provided by 68 O.S. 1401 et

seq., or as such sections may hereinafter be amended, shall apply to the imposition of the municipal use tax.

SECTION 7-504 TIME WHEN DUE, RETURNS, PAYMENT.

The tax levied by this Article is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

SECTION 7-505 TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

SECTION 7-506 COLLECTION OF TAX BY RETAILER OR VENDOR.

Except as otherwise provided by 68 O.S. §1401 et seq., every retailer or vendor maintaining places of business both within and without this state and making sales of tangible personal property from a place of business outside this state for use in this municipality shall at the time of making such sales collect the use tax levied by this Article from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all the retailer's or vendor's agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this municipality. The retailer or vendor shall not collect the use tax levied by this Article from a purchaser who is a holder of a direct payment permit issued pursuant to 68 O.S. §1364.1.

SECTION 7-507 COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND WITHOUT STATE — PERMITS.

The Tax Commission may in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this municipality and by the out-of-state place of business of any

retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible personal property at such out-of-state place of business for use in this municipality. Such retailer or vendor shall be issued, without charge, a permit to collect such taxes, in such manner and subject to such regulations and agreements as the Tax Commission shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible personal property sold to his knowledge for use within this municipality. Such authority and permit may be canceled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable local sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-508 REVOKING PERMITS.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Article or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. § 1408, by order revoke tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state, may, after notice and hearing above provided, cancel said corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this Article, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

SECTION 7-509 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES.

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances

of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of State Use Taxes.

SECTION 7-510 INTEREST AND PENALTIES; DELINQUENCY.

Title 68 O.S. § 217, is hereby adopted and made a part of this Article, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Article. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Article.

SECTION 7-511 WAIVER OF INTEREST AND PENALTIES.

The interest or penalty of any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipal tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. § 227, and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

SECTION 7-512 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

Refund of erroneous payment of the municipal Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. § 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

SECTION 7-513 FRAUDULENT RETURNS.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and

fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be an offense and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than One Hundred Dollars (\$100.00) and costs. Each day of noncompliance with this Article shall constitute a separate offense.

SECTION 7-514 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipal Use Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal Use Tax as is herein set forth in full.

SECTION 7-515 CLASSIFICATION OF TAXPAYERS.

For the purpose of this Article, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code.

SECTION 7-516 SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this Article hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipal permit for the same purpose.

SECTION 7-517 PURPOSES OF REVENUES.

It is hereby declared to be the purpose of this Article to provide revenues for the support of the functions of the municipal government of the municipality, and any and all revenues derived hereunder may be expended by the governing body of the municipality for any purpose for which funds may be lawfully expended as authorized.

ARTICLE 6

FRANCHISE WITH ALFALFA ELECTRIC COOPERATIVE, INC.

Section 7-601 DEFINITIONS

The word "City" as hereinafter used shall mean and designate the City of Cherokee, Alfalfa County, Oklahoma, and the word "Corporation" as hereinafter used shall mean and designate Alfalfa Electric Cooperative, Inc., a corporation organized and existing under and by virtue of the laws of the State of Oklahoma, its successors and assigns.

Section 7-602 FRANCHISE GRANTED

A. Subject to the approval of the qualified electors residing within the corporate limits of the City of Cherokee, Oklahoma, as hereinafter provided, and without surrendering any of the police powers of said City or of the State of Oklahoma, there hereby is granted to the Corporation a non-exclusive franchise of the right, privilege and authority to produce, transmit, distribute and sell electricity within the corporate limits of the City for all purposes for which it may be used, to the City, its inhabitants and the public generally and the right, privilege and authority to construct, install maintain and operate in, upon, across and under the streets, alleys and other public grounds, and ways within the City of Cherokee, Oklahoma, a system of poles, wires, conduits, transformers, substations, equipment and other physical facilities for the purpose of producing, transmitting, distributing, and selling electricity. It is expressly stipulated that all costs and expenses relating to the construction, installation, maintenance and operation of said system, including payment of indebtedness therefor, shall be defrayed solely by said Corporation, and that the City of Cherokee, Oklahoma, and its taxpayers shall in no manner be liable or obligated therefor. The franchise herein granted shall remain in full force and effect for a term of Twenty-five (25) years from and after the date of the filing with the City Clerk of the City of Cherokee, Oklahoma, a written acceptance thereof by said Corporation, which, in any event, must be filed before the expiration of one (1) year after the date of the election provided for in this ordinance, but such franchise shall not be exclusive.

B. The franchise herein granted shall be effective from and

after the date of approval of this Ordinance by a majority of the registered voters of the City and upon acceptance by the Corporation and shall remain in full force and effect for the said period of twenty-five (25) years. Nothing contained herein shall be construed to prevent the City from granting an electric franchise to any other person, firm or corporation.

C. The Corporation shall construct, operate and maintain its property in such manner as will, consistent with necessity, not unduly obstruct nor impede traffic.

D. The Corporation shall defend and indemnify the City against all liability for injury to any person or property caused by the negligence of the Corporation in the construction, operation and maintenance of its property within the City.

E. Electric service provided hereunder to the City, its inhabitants, and to the public generally, and rates charged therefor shall be in accordance with orders, rules and regulations of the Corporation Commission of the State of Oklahoma or other appropriate regulatory authority having jurisdiction.

F. The Corporation shall have the right to assign this franchise and the assignee by written acceptance thereof shall be bound by all the provisions hereof. An authenticated copy of such assignment and acceptance shall be filed with the Clerk of the City.

Section 7-603 FRANCHISE FEE; COMMISSION REGULATES; FREE POWER

A. The Corporation shall pay, and in consideration of the granting of this franchise, agrees to pay to the City as a franchise tax, after deducting therefrom any account due the Corporation from the City, and as a compensation for the right and privilege enjoyed hereunder, a sum equal to three percent (3%) of its gross receipts from the sale of electricity for retail sales only within the City of Cherokee, Oklahoma, payable semi-annually on January 1st and July 1st of each year, which tax shall be in lieu of all other franchise, excise, license, occupation, privilege, inspection, permit, or other fees, taxes or assessments, and such franchise tax shall be levied, assessed and listed separately on the electric bills to the customers.

B. The Corporation shall abide by any order, rule or

regulation of the Corporation Commission of the State of Oklahoma regarding such franchise tax on electric bills to customers.

C. The Corporation shall furnish to the City without charge each fiscal year during the term hereof electric current to be used exclusively by the City for operation of traffic signal lights and building occupied and operated by the City for municipal purposes, to be applied by the Corporation as a credit to billings to the City, provided that such electric current shall not exceed one-half of one percent (0.5%) of the kilowatt-hours sold by the Corporation to customers within the corporate limits of the City during the preceding fiscal year.

ARTICLE 7

HOTEL TAX

Section 7-701. SHORT TITLE.

This article shall be known and cited as the "Cherokee Hotel Tax Ordinance."

Section 7-702. 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:

"Director" shall mean the Oklahoma Tax Commission.

"Hotel" shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations, whether such rooms are in one or several structures. The term *Hotel* shall also include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents," and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term *Hotel* shall not include hospitals, sanitariums or nursing homes.

"Occupancy" shall mean the use or possession, or the right to the use or possession of any room or rooms in a Hotel, or the right

to the use or possession of the furnishings or to the services and accommodations accompanying the use and possessions of the room or rooms.

"Occupant" shall mean a person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a Hotel under any lease, concession, permit, right to access, license to use, or other agreement.

"Operator" shall mean any person operating a Hotel in this city, included, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such Hotel.

"Rent" shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

"Return" shall mean any return filed or required to be filed as herein provided.

"Room" shall mean any room or rooms of any kind in any part or portion of a Hotel which is available for or let out for use or possessed for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational, recreational or amusement purposes and shall include: dance halls, cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, social, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools, billiard, bowling and table tennis; tennis rooms; halls or rooms used for public or private catering purposes, funeral parlors; markets; recreational rooms; concert halls; broadcasting studios, and all other places of similar type of occupancy.

"Tax" shall mean the tax levied pursuant to this Article.

Section 7-703 LEVIED; RATE.

There is hereby levied an excise tax in the amount of five

percent (5%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a Hotel in this city. Beginning on April 1, 2020, and continuing thereafter, all collection activities will be transferred from the City of Cherokee to the Oklahoma Tax Commission. Further this tax is only applicable to those sales of rooms at hotels which are also subject to state sales taxes.

Section 7-704 EXEMPTIONS.

The exemptions from payment of the tax levied in this Article shall be the same as the exemptions from state sales tax enumerated in Title 68, Section 1350 et seq., of the Oklahoma Statutes, as amended. The "Sales Tax Code" is hereby adopted and incorporated herein by reference. Should any conflict in connection with the permitted exemptions arise under this Article and the Sales Tax Code, the Sales Tax Code shall prevail.

Section 7-705 CERTIFICATE OF EXEMPTION.

Anyone claiming to be exempt from the tax must furnish proof to the director of such exemption and obtain from the director a certificate of the exemption.

Section 7-706 TAX TO BE SEPARATELY DESIGNATED ON BILLS.

The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

Section 7-707 OPERATOR RESPONSIBLE FOR COLLECTION.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

Section 7-708 RECORDS TO BE KEPT.

Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable therein in such form as the director may by regulations require. Such records shall be available for inspection and examination at any time upon demand by the director, and shall be preserved for a period of three (3) years except that the director may consent to

their destruction within that period or may require that they be kept longer.

Section 7- 709 RETURNS.

(a) Every operator, on or before the same date each month that sales tax reports are due to the Oklahoma Tax Commission, shall file with the Oklahoma Tax Commission a return of occupancy and rents and of the taxes payable thereon for the preceding calendar month after the effective date of this article.

(b) The Oklahoma Tax Commission may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the Oklahoma Tax Commission and shall contain such information as he may deem necessary for the proper administration of this article. The Oklahoma Tax Commission may require amended returns to be filed within, twenty (20) days after notice and to contain the information specified in the notice.

Section 7-710 PAYMENT OF TAX.

At the time of filing a return of occupancy and of rents, each operator shall pay to the director the taxes imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this Article. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the director on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

Section 7-711 ASSESSMENT AND DETERMINATION OF TAX.

If a return required by this Article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Oklahoma Tax Commission from such information as may be assessed by the Oklahoma Tax Commission from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person

liable for the collection and payment of the tax.

Section 7-712 REFUNDS.

The Oklahoma Tax Commission shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the Oklahoma Tax Commission for such refund shall be made within two (2) years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the Oklahoma Tax Commission. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may also be made by the person who has collected and paid such tax to the Oklahoma Tax Commission providing that the application is made within two (2) years of the payment by the occupant to the operator but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The Oklahoma Tax Commission in lieu of any refund required to be made, may allow credit therefor on payment due from the applicant.

(b) Upon application for a refund the Oklahoma Tax Commission may receive evidence with respect thereto and make such investigation as he deems necessary. After making a determination as to the refund, the Oklahoma Tax Commission shall give notice thereof to the applicant. Such determination shall be final unless the applicant within ninety (90) days after such notice shall apply in writing to the Oklahoma Tax Commission or its designee for a hearing. After such hearing, the Oklahoma Tax Commission or its designee shall give written notice of its decision to the applicant.

Section 7-713 NOTICES.

Notices provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail to the last known address of the operator.

Section 7-714 REMEDIES EXCLUSIVE.

The remedies provided in this article shall be exclusive remedies available to any person for the review of tax liability imposed by this article.

Section 7-715 GENERAL POWERS OF OKLAHOMA TAX COMMISSION.

In addition to all other powers granted to the Oklahoma Tax Commission, Oklahoma Tax Commission is hereby authorized and empowered to delegate its functions hereunder to an assistant or other employees or employees.

Section 7-716 RESERVEDSection 7-717 CERTIFICATES OF REGISTRATION.

Every operator shall file with the Oklahoma Tax Commission a certificate of registration in a form prescribed by said Oklahoma Tax Commission within ten (10) days after the effective date hereof, or in the case of operators commencing business or opening new hotels after such effective date, within three (3) days after such commencement or opening. The Oklahoma Tax Commission shall, within five (5) days after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional Hotel. Each certificate or duplicate shall state the Hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and comes to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Oklahoma Tax Commission upon the cessation of business at the Hotel named, or upon its sale or transfer.

Section 7-718 INTEREST.

If any tax levied by this article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half (1 ½) percent per month on the unpaid balance from the date of delinquency and after ten (10) days a ten percent (10%) penalty to be assessed by the Oklahoma Tax Commission.

Section 7-719 DELINQUENT TAXES.

The tax levied by this article shall be due and payable at the time filing of the returns provided for in this article is required. All taxes not paid when they become due, shall be delinquent.

Section 7-720 DISCOUNT.

Any discount permitted vendors for timely remittances under the Oklahoma Sale Tax Code shall be permitted of operators making remittances to the Oklahoma Tax Commission pursuant to the Hotel Tax Ordinance.

Section 7-721 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the Hotel tax is legislatively recognized and declared, and to protect the same the provisions of section 205 of Title 68 of the Oklahoma Statutes, as amended, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the tax as if herein set forth.

Section 7-722 FRAUDULENT RETURNS.

The willful failure or refusal of any taxpayer or operator to make any timely reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article shall be an offense, and upon conviction thereof the offending taxpayer or operator shall be subject to a fine of not more than two hundred dollars (\$200.00) plus costs; each day shall be considered a separate offense.

Section 7-723 AMENDMENTS.

The registered voters of the City of Cherokee by their approval of this article at the election herein provided, hereby authorize the governing body by ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as provided by law.

Section 7-724 USE OF FUNDS.

All taxes collected pursuant to the provisions of this article shall be set aside and used exclusively for the purpose of encouraging, promoting and fostering the tourism and economic

development of the city and in addition, for the construction of capital improvements and purchase of capital equipment that serve such tourism and economic development purpose. All monies collected shall be put in the Tourism/Economic Development Restricted Cash Account ("Account") and expended as herein provided. The Account shall be a special, limited purpose account, established within the general budget of the City of Cherokee, and shall be used solely for the purpose of receiving the revenues derived from collection of the Hotel tax imposed hereunder, receiving income from the investment of said monies contained in the Account, and shall be accumulated, earmarked, used and expended, both principal and interest, to encourage, promote and foster tourism and economic development, and for any necessary fees, costs and expenses to accomplish those purposes.

Section 7-725 HOTEL TAX WATCH DOG COMMITTEE.

A. There is hereby created a Hotel Tax Watch Dog Committee for the City of Cherokee which shall be composed of three (3) members.

B. The members shall serve without compensation. Of the members appointed:

- (1) One (1) member shall be selected by, and from among, the Directors of the Cherokee Main Street, which member shall serve so long as such member retains his/her MainStreet Director status, unless otherwise replaced with a successor Main Street appointment from their Board of Directors.
- (2) One (1) shall be selected by, and from among, the members of the City Council of the City of Cherokee, which member shall serve so long as such member retains the Office of Councilman unless otherwise replaced with a successor Councilman appointment.
- (3) One (1) shall be selected by the Mayor of the City, which member shall serve so long as such Mayor retains the Office of Mayor or otherwise replaced with a successor mayoral appointment.

C. Powers and Duties. All expenditures recommended to be made by the City Council from funds derived from the Hotel Tax must be concurred with by the Hotel Tax Watch Dog Committee.

The Hotel Tax Watch Dog Committee shall examine each request for expenditure, and after initial approval of such request by the City Commissioners, must concur or reject such proposed expenditure.

A majority vote of all the members of the Committee shall be required for approval. No expenditure shall be made unless first approved by the City Council with concurrence by a majority vote of all the members of the Hotel Tax Watch Dog Committee.

D. The Hotel Tax Watch Dog Committee shall meet on the same day as the regular meetings of the Commission and at least once per quarter.

Section 7-726 PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of city ordinances.

ARTICLE 8

OKLAHOMA NATURAL GAS FRANCHISE

Section 7-801 DEFINITIONS

As used in this Article, the following words and phrases shall have the following meanings:

A. "Calculated Value" shall mean the total Transport Gas measured in Dekatherms (Dth), delivered to a Transport Gas Consumer for a billing period, multiplied by the Settlement Price to arrive at the value of the Transport Gas transported by Grantee for that Transport Gas Consumer.

B. "Consumer" shall mean any individual person, corporation, company, partnership, firm, unincorporated association, trust, municipality, or public or private entity located within the municipal corporate limits of the City and serviced by the Grantee through any use of the Public Ways.

C. "Dekatherm" or "Dth" shall mean a measurement of natural gas equal to 1,000,000 British Thermal Units ("Btu"), or 1 MMBtu, on a dry basis. Btu shall be computed on a temperature base of 60 degrees Fahrenheit and a pressure base of 14.73 PSIA.

D. "Distributed" or "Distribution" shall mean all sales, distribution, or transportation of natural gas to any Consumer or user located within the municipal corporate limits of the City by the Grantee or by others through Grantee's Distribution System.

E. "Distribution System" shall mean a system of works, pipes, pipelines, apparatus, machinery, structures, appliances and appurtenances as are reasonably necessary for the transportation, distribution or sale of gas to Consumers.

F. "Franchise" shall mean the rights and privileges granted by Grantor to Grantee under Subsection A of Section 7-802 of this Article.

G. "Franchise Fee" or "Franchise Fees" shall mean the sum of fees to be paid to the City by Grantee under Section 7-811 of this Article, at Paragraph A(1), as consideration for the use of the Public Ways and shall be inclusive or in lieu of any permit fees, lane closure fees and similar fees or charges for construction, installation, maintenance or restoration work on the Distribution System within the Public Ways.

H. "Grantee" shall mean ONE Gas, Inc., a corporation acting by and through its Oklahoma Natural Gas Company division, and its successors and assigns.

I. "Grantor" shall mean the City of Cherokee, Oklahoma, a municipal corporation, hereinafter also referred to as the "City".

J. "Gross Receipts" shall mean any and all compensation derived by Grantee directly from the Distribution of natural gas to a Consumer for any use, including residential, industrial and commercial purposes, and shall include without limitation revenues from any operation or use of any or all of the Distribution System by Grantee or others. Gross Receipts shall not include revenues received by Grantee from Consumers as franchise fee reimbursement nor Volumetric Rate Fees collected by Grantee and remitted to Grantor in accordance with Paragraph 11.A(2) pursuant to an ordinance enacted by Grantor according to Paragraph 3.B(1) hereof, nor shall Gross Receipts include revenues from incidental charges or miscellaneous fees not directly generated by the Distribution of natural gas to Consumers, such as, by way of example, connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, delayed or late payment

charges, temporary service charges, and other such charges.

K. "Install, operate and maintain" shall mean to acquire, erect, construct, install, extend, repair, remove, relocate, replace, or otherwise operate and maintain.

L. "Public Ways" shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, public right of way, and any other public ways, places, areas, or grounds within the municipal corporate limits of the City as now constituted or as may be added or extended hereafter.

M. "Settlement Price" shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX), or any successor exchange or index, on the 15th day of each month as published daily in *The Wall Street Journal* (WSJ) on the following business day (or the next day in which a Settlement Price is published) for each month of the twelve-month period immediately following.

N. "Transportation Tariff Arrangement" shall mean any arrangement between Grantee and a Consumer pursuant to which natural gas owned by any party other than the Grantee shall be transported, distributed or sold through any portion of Grantee's Distribution System and under one of Grantee's tariffs or special contract for delivery to the Consumer.

O. "Transport Gas" shall mean all natural gas transported by Grantee pursuant to a Transportation Tariff Arrangement or by other agreement, but not sold by Grantee through Grantee's Distribution System to any Consumer or user located within the municipal corporate limits of the City.

P. "Transport Gas Consumer" shall mean a Consumer which uses Transport Gas.

Q. "Volumetric Rate" shall mean Four Percent (4%) of the Calculated Value of Transport Gas as determined by Grantee in accordance with the provisions of this definition. The Volumetric Rate Calculation Form incorporated herein as Exhibit "A" shall be used for the calculation of the Volumetric Rate; provided, that the Grantor enacts an ordinance as described in Paragraph 3.B(1) below, the four percent (4%) multiplier labeled "4% Bundled Franchise Fee Rate" set forth on "Exhibit A" shall be completed by Grantee and

filed with the City Clerk of the City upon Grantee's acceptance of this franchise and annually by each July following acceptance. The calculation filed upon Grantee's acceptance of this franchise shall be effective from the date of such filing through and including December 31 of the next succeeding calendar year. The calculation filed by Grantee on July 31 in years following the year of acceptance of this franchise shall be effective on January 1 of the next succeeding calendar year through and including December 31 of such calendar year. The calculation shall be subject to review by the City for mathematical correctness and the City shall notify Grantee in writing within forty-five (45) calendar days after submission if the City deems such calculation to be incorrect. The volumetric rate calculation shall be based on the average of the average Settlement Prices for the twelve-month period beginning in July of the immediately preceding year and ending in June immediately preceding the July 31 calculation. The average Settlement Prices for each month during said twelve-month period shall be calculated by adding the Settlement Prices for such month and the previous eleven (11) months as published and dividing by twelve. The average Settlement Prices for each of the twelve months shall then be summed and divided by twelve to determine the average of the average Settlement Prices and then multiplied by four percent (4%) to obtain the Volumetric Rate; provided, in the event the then-current average of the average Settlement Prices as calculated above and entered on the Volumetric Rate Calculation Form, attached as Exhibit "A" (see line designated on Exhibit "A" as "settlement price average"), exceeds the Index price for ONEOK Gas Transportation, L.L.C., that is listed in the issue of Platt's "Inside FERC's Gas Market Report" published on the first business day of the respective month ("Platt's Index price"), then the Platt's Index price shall be used to calculate the Volumetric Rate for that delivery month in lieu of the average of the average Settlement Prices entered on the Volumetric Rate Calculation Form (Exhibit "A") (i.e., for that respective delivery month, the Volumetric Rate shall be determined by taking the Platt's Index price and multiplying that price by 4% or the then applicable increased percentage determined in the same manner set out in Paragraph 11.A(2) of this franchise).

R. Volumetric Rate Fee" or "Volumetric Rate Fees" shall mean the fee or fees based on the Volumetric Rate to be collected and remitted to the City by Grantee as required by Paragraph 11.A(2) of this franchise upon the enactment of an ordinance as described in Paragraph 3.B(1).

Section 7-802 GRANT OF FRANCHISE

A. The Grantor hereby grants to Grantee for the term of twenty-five (25) years from the passage and voter approval of this Article and the filing of a written acceptance by the Grantee, the right to enter upon the Public Ways to install, operate and maintain a Distribution System along, across, over and under the Public Ways for the privilege of transporting, distributing and/or selling gas to consumers and the public generally within the municipal corporate limits of the City.

B. The Article shall have the effect of and shall be a contract between Grantor and Grantee and shall be the measure of the rights and liabilities of Grantor as well as Grantee.

C. The franchise granted by this Article is not exclusive and nothing herein shall be construed to divest the Grantor of its control and regulation of the Public Ways.

Section 7-803 FRANCHISE ASSIGNMENT, SALE OR LEASE

A. Grantee shall not have the right to assign, sell, lease, or otherwise transfer in any manner whatsoever to any third party not affiliated with Grantee the rights and privileges granted under this Article except as hereinafter provided. Any assignment, sale, lease, or other transfer by the Grantee of the franchise granted herein to any third party not affiliated with Grantee shall be ineffective and void unless:

- (1) The proposed assignment, sale, lease or transfer shall be in writing:
- (2) The prospective assignee, buyer, lessee or other transferee shall agree in writing to accept and become responsible for full performance of all conditions, covenants, obligations, and liabilities contained in this Article; and
- (3) Such writing shall be submitted to the City Clerk of the City.

This Subsection shall not apply to any arrangement which is in compliance with the provisions of Subsection B of this Section. This Section shall not apply to the use of any

portion of Grantee's distribution system for the transportation, distribution or sale to any Consumer purchasing, receiving and using natural gas outside the municipal corporate limits of the City.

B. After the operative date of this Article, Grantee shall have the right to enter into or continue to operate pursuant to any "Transportation Tariff Arrangement" or to enter into or continue any arrangement by which natural gas owned by any party other than Grantee shall be transported, distributed or sold through any portion of Grantee's Distribution System for delivery to any Consumer located within the municipal corporate limits of the City, subject to the following:

- (1) Should Grantor, by separate ordinance, require persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways in connection with the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate Fee and collected and remitted by Grantee as provided in Paragraph 11.A(2) of this Article;
- (2) The Transport Gas Consumer shall have obtained a license from the Grantor, if the Grantor shall have a licensing ordinance in effect, for the use of the Public Ways in connection with such transport of natural gas, and the Grantor shall have notified the Grantee in writing of such license.

Section 7-804 USE AND REPAIR OF THE PUBLIC WAYS

A. Grantee's Distribution System shall be erected, placed, and laid or otherwise installed, operated and maintained in such a manner as will, consistent with reasonable necessity, least interfere with other public uses of the Public Ways.

B. Before Grantee shall excavate or disturb the surface of any Public Way, except in the case of emergency, at least forty-eight (48) hours' notice shall be given to the City's Engineer, Public Works Director or other proper authority designated in writing by the Grantor. After such excavation or disturbance, the Grantee shall, with due diligence and dispatch, place the Public Way in a condition in compliance with the Grantor's reasonable standards and specifications.

C. Upon Grantee's failure to commence or complete any construction, maintenance or restoration work required by this Article with due diligence and dispatch, the Grantor may cause such work to be done after written notice to Grantee, given so as to afford Grantee an opportunity to commence and complete such work within a reasonable time. The cost of such construction, maintenance or restoration incurred by Grantor upon Grantee's failure shall then be charged and collected from the Grantee.

D. Grantor reserves the right to make and enforce reasonable regulations concerning the construction of Grantee's Distribution System located within, along, across, over, or under the Public Ways and to reasonably designate where the Distribution System's works and pipelines shall be placed, so long as such regulations are not in conflict with the laws of the State of Oklahoma and the United States or the orders, rules or regulations of the Oklahoma Corporation Commission or other regulatory authority having jurisdiction over Grantee.

Section 7-805 REGULATION OF SERVICE

A. The Distribution System of the Grantee shall at all times be installed, operated and maintained in accordance with accepted good practice and in such condition as will enable the Grantee to furnish adequate and continuous service as required by the orders, rules and regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction. The requirements set forth in this Section shall not relieve Grantee of any other obligations set forth herein.

B. In the event that the Corporation Commission of Oklahoma or other state regulatory authority shall be deprived of the authority to regulate Grantee, then Grantor shall have the authority to set rates, terms and conditions of service for transportation, distribution or sale of natural gas by Grantee within the municipal corporate limits of the City.

Section 7-806 DEPTH OF PIPELINES

After the operative date of this franchise, Grantee's main or lateral lines installed or replaced in Public Ways shall be installed or replaced at depths which comply with all applicable state and federal rules and regulations establishing minimum safety standards for the design, construction, maintenance and operation

of pipelines. Depth shall be measured from the lower of existing grade or proposed future grade as set forth on plans or other specifications existing at the time such lines are installed or replaced.

Section 7-807 DUTY TO MOVE OR ALTER LINES

A. Grantor reserves the right to lay or permit to be laid cables, electric conduits, water, sewer, gas or other pipelines and to do or permit to be done any underground work deemed necessary and proper by the Grantor, along, across, over or under the Public Ways. In permitting such work to be done, the Grantor shall not be liable to the Grantee for any damage to Grantee's pipeline unless Grantor or its agents or contractors are negligent in causing said damage.

B. Whenever by reason of establishing a grade or changes in the grade of any street or in the location or manner of construction of any public way, cables, electric conduits, water, sewer, gas or other underground structures, it shall be deemed necessary by the Grantor to alter, change, adapt or conform any portion of Grantee's Distribution System located in the Public Ways, such alterations or changes shall be made within a reasonable time by the Grantee, as ordered in writing by the Grantor, without claim for reimbursement or compensation for damages against Grantor; provided, however, that this Section is not intended to require Grantee to alter, change, adapt or conform any portion of its Distribution System without reimbursement or compensation where the right to locate the same, whether by private right-of-way grant, utility easement or otherwise, was acquired prior to its location in the public way.

C. If Grantor shall require the Grantee to adapt or conform its Distribution System or in any way to alter, relocate or change its property to enable any other person, firm, corporation or entity (whether public or private), other than the Grantor, to use the Public Ways, the Grantee shall be reimbursed by the person, firm corporation or entity desiring or occasioning such change for any and all loss, cost or expense occasioned thereby.

D. "Person," "firm," "corporation," and "entity" as used in Subsection C of this Section shall not include regular departments of the Grantor, or any trust or authority formed by or for the benefit of Grantor for public utility purposes, but shall include

any other agency or authority of the City, whether acting in a governmental or non-governmental capacity, including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the municipal corporate limits and relocates citizens for the purpose of urban development or similar aims.

Section 7-808 INDEMNIFICATION OF GRANTOR

The Grantee shall indemnify, become responsible for and forever save harmless the Grantor from any and all damages, judgments, reasonable costs and expenses, including attorney fees, which the Grantor may suffer or incur, or which may be legally obtained against the Grantor, for or by reason of the negligent use, repair or occupation of any public way within the municipal corporate limits of the City by the Grantee pursuant to the terms of this Article or resulting from the negligent exercise by the Grantee of any of its privileges or by reason of its carrying on its business in the City (except where such damages, judgments, reasonable costs and expenses, including attorney fees, result from the negligence of Grantor or its agents or contractors); provided, however, that in the event of such claim or claims being prosecuted against the Grantor, the Grantee shall have the right to defend against the same, and to settle or discharge same in such manner as it may see fit, and the Grantor shall give prompt written notice to the Grantee of the presentation or prosecution of such claims.

Section 7-809 GRANTEE'S RULES AND REGULATIONS

The Grantee shall have the right to make and enforce such reasonable rules and regulations as it may deem necessary for the extension of its facilities, the sale of its gas and the prudent conduct of its business, provided that such rules and regulations shall neither be in conflict with the laws of the State of Oklahoma, with the orders, rules or regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction, nor with the ordinances and regulations of the Grantor insofar as they are consistent with the jurisdiction of the Corporation Commission of Oklahoma or such other regulatory authority.

Section 7-810 INSPECTION OF RECORDS

Grantee shall permit Grantor or its agents to inspect, during regular business hours, the books, papers and records kept by Grantee in the ordinary course of business and pertaining to the natural gas business carried on by it in the City, such as plats, maps and atlases identifying Grantee's pipelines in the City, and the books and records necessary to verify the franchise fee payment provided for in Section 11 hereof. Notwithstanding the obligation herein, Grantee shall have the right to request the reasonable protection of proprietary information and to provide redacted documents or require Grantor or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of Grantee but which do not unreasonably frustrate the purposes of this Section. Grantor shall promptly notify Grantee in writing of areas newly annexed into or de-annexed from the corporate limits of Grantor, and Grantee shall update its records for the purpose of payment of franchise fees as soon as reasonably practicable after receiving such notice.

Section 7-811 CONSIDERATION FOR FRANCHISE: FRANCHISE FEE

A. In consideration for the rights and privileges enjoyed under this franchise, Grantee agrees to pay Grantor as follows:

(1) Grantee shall pay Grantor a franchise fee the sum of which is equal to Four Percent (4%) of the Gross Receipts received by Grantee, per billing period, from the transportation, distribution, and sale of natural gas for domestic, commercial or industrial consumption within the municipal corporate limits of the City. All sums due from Grantee shall be in lieu of all other franchise, license, or occupational taxes or fees, which may be levied or attempted to be levied on Grantee by the City.

(2) In the event that Grantor, pursuant to Paragraph 3.B(1) of this Ordinance, requires persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways in connection the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate fee for such Transport Gas, which shall be the sum equal to the then current Volumetric Rate multiplied by the number of Dth of Transport Gas reported or distributed through Grantee's facilities within the municipal corporate limits of the City by Grantee or by any third-party to transport customers for consumption within the

City. Grantee will in that event collect such Volumetric Rate Fees from persons transporting gas pursuant to a Transportation Tariff Arrangement and remit the same to Grantor.

B. In the event a customer of Grantee does not pay a monthly bill from Grantee in full, Grantee shall prorate its payments of remissions to the City for sums due on that particular bill so that the amount actually paid by the customer to Grantee on the bill is distributed to Grantee for the natural gas commodity and transportation or distribution service and to the City for sums due on the bill in proportion to the percentage of the total bill actually paid by the customer. In the event Grantee actually collects any outstanding amounts due on a past due, unpaid or partially paid monthly bill to a customer, then Grantee shall pay Grantor its proportionate share of sums due to the City on such bill.

C. Grantee's franchise fee based upon a percentage of gross cash receipts or a volumetric rate shall be payable monthly on or before the 25th day of each month, on its gross cash receipts for the preceding calendar month.

D. All sums due from Grantee under this Section shall be in lieu of all other franchise, license, or occupation taxes or fees, which may be levied or attempted to be levied on Grantee by the City including, but not limited to, any permit fees, lane closure fees and similar fees or charges for construction, installation, maintenance or restoration work on the Distribution System within the Public Ways.

E. The City's chief administrative officer or his designee may waive the Volumetric Rate Fee or any part thereof due from a Transport Gas Consumer, but such waiver shall only be granted if:

- (1) The Transport Gas Consumer could otherwise obtain its energy needs from another source that would not be subject to the fees imposed in Subparagraph 2 of Subsection 11.A above and sufficient evidence is produced by the Transport Gas Consumer so as to substantiate such alternative source; and
- (2) Such alternative source, including all other fees, would be less than the cost of utilizing Grantee to furnish and transport the gas or transport alone, as the case may be.

F. Grantee shall update its records for the purpose of franchise fee payments as soon as reasonably practicable after receiving such notice.

G. In the event the accounting rendered to Grantor by Grantee is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that Grantor may accept amount offered by Grantee, but the acceptance thereof by Grantor shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. Grantee shall have no obligation, however, to make payment upon Transport Gas for which Grantee has not been paid. Grantee shall provide notice to Grantor of such delinquent accounts within ninety (90) days and Grantor shall hold Grantee harmless from the cost or liability for the collection of franchise fees on such delinquent accounts.

H. Grantor agrees that the franchise fee percentage rate set forth in Subsection 11.A, at Paragraphs (1) and (2), of this Ordinance shall in no event exceed the percentage rate hereafter approved to calculate any fee paid to Grantor by any other person or entity for use of the Public Ways if such fee or volumetric rate is based in any way on the amount of revenues or gross receipts from the transportation, distribution, or sale of natural gas or electric energy, excluding any municipally-owned electric utility, by such other person or entity to ultimate Consumers within the City. If at any time after the effective date of this Article the fee or rate required to be paid by another is less than the percentage rate set forth in Paragraphs A(1) or (2) of Section 11, then the percentage rate set forth in Paragraphs A(1) or (2) of Section 7-811 of this Article shall be reduced to equal such lesser percentage rate on the date such lesser percentage rate becomes effective and without any further action by the City or the qualified electors residing therein.

Section 7-812 CONDITIONS OF FRANCHISE

This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction.

Section 7-813 INVALIDITY OF Article

If any clause, sentence, or section of this Article shall be held to be invalid, it shall not affect the remaining portions of this Article, which shall remain valid and effective as if such invalid provision did not exist, although the parties shall be entitled to a judicial interpretation or construction of this Article to address the validation of such provision by minimal amendment thereof. Further, should any governmental body now or hereafter having jurisdiction determine that Grantee shall not be permitted to collect in whole or in part the compensation due Grantor by others for Transport Gas as set forth in Paragraph (2) of Subsection B of Section 7-803 and Paragraph (2) of Subsection A of Section 7-811 of this Article, Grantee shall thereafter have no obligation to make such payment to Grantor and Paragraph (2) of Subsection B of Section 3 and Paragraph (2) of Subsection A of Section 7-811 shall be of no force and effect.

Section 7-814 ELECTION REQUIRED

This Article shall not become operative until it shall be approved by a majority of the qualified electors voting thereon residing within the municipal corporate limits of the City at an election called for that purpose, and a special election is hereby called for the purpose of submitting to the qualified electors residing in said City, the question of approval or disapproval of this Article, which election shall be held on the 4th day of April 2017, between the hours prescribed by law. The Mayor of the City is hereby authorized and directed to issue a proper and lawful call and proclamation of such special election to be held on such date as aforesaid for said purpose, and the City Commission of the City are hereby directed to give due and lawful notice of such election and submission of said question to the electors of said City as prescribed by law and the Articles of the City.

Section 7-815 ACCEPTANCE, OPERATIVE AND EFFECTIVE DATE; EMERGENCY

In the event this Article is approved by a majority vote of said electors voting thereon at said election, the Grantee shall file with the City Clerk, within thirty days after the official canvass of the votes and declaration by the City Commission of the results thereof, a written acceptance. This Article shall become operative on the date of filing of such acceptance.

An emergency is hereby declared to exist by reason of the fact that no other person, firm or corporation has a franchise to furnish natural gas to residents and inhabitants of the City, and for the preservation of the public peace, health and safety, and by reason whereof this Article shall be *effective* immediately from and after its passage, approval and publication.

CHAPTER 8: HEALTH AND SANITATION

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- Section 8-102 DEFINITIONS
- Section 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH
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(RESERVED)

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CHAPTER 8: HEALTH AND SANITATION

ARTICLE 1

WEEDS AND TRASH

Section 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

No person, entity or corporation owning or otherwise in possession or control of real property located within the corporate limits of the city shall allow trash to accumulate, or weeds to grow or stand upon such real property.

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. Section 22-111C.

Section 8-102 DEFINITIONS.

As used in this Article, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Cleaning" means the removal of trash from property;
2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;
3. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which in uncared for, discarded or abandoned; and
4. "Weed" includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:
 - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community of a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;

- b. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;
- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased.

The term "weed" does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

Section 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH ON PROPERTY.

Any officer or employee of the city who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the city, shall report the condition to the City Manager, if, as a result of the accumulation or growth, the premises appear to be:

- 1. Detrimental to the health, benefit and welfare of the public and the community;
- 2. A hazard to traffic; or
- 3. A fire hazard to property.

State Law Reference: Cleaning and mowing of property, procedures and powers 11 O.S. Section 22-111.

Section 8-104 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, RIGHT OF ENTRY.

The city may cause property within the corporate limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

- 1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the

hearing provided for herein or before action may be taken. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless the work is performed within ten (10) days of the date of the notice the work shall be done by the city and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the city. At the time of mailing of notice to the property owner, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. However, if the property owner cannot be located within ten (10) days from the date of mailing of same, notice may be given by posting a copy of the notice on the property or by publication, as provided in Section 1-102 of Title 11 of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action by the city. If the city anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by certified mail or publication, shall state:

- a. That any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the city;
- b. That the costs of such abatement shall be assessed against the owner; and
- c. That a lien shall be imposed on the property to secure such payment, all without further prior notice to the property owner.

At the time of each summary abatement the city clerk shall notify the property owner of the abatement and costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided in Section 8-105. Provided however, these summary abatement procedures shall not apply if the records of the county clerk show that the property was transferred after the notice was given pursuant to this Section;

2. The owner of the property may give his written consent to the city authorizing the removal of the trash or the mowing of the

weeds or grass. By giving the written consent, the owner waives his right to a hearing by the city;

3. The City Commission hereby designate the City Manager to carry out the duties of the City Commission as provided by Sections 8-101 through 8-107 of this Article. A hearing may be held by the City Manager of the city to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property. The property owner shall have a right of appeal to the City Commission from any order of the City Manager. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered; and

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the city. Immediately following the cleaning or mowing of the property, the city clerk shall file a notice of lien with the county clerk describing the property and the work performed by the city, and stating that the city claims a lien on the property for the cleaning or mowing costs.

Section 8-105 DETERMINATION AND ASSESSMENT OF COSTS.

The City Manager shall determine the actual cost of such cleaning and mowing and any other expenses that may be necessary in conjunction therewith, including the cost of notice and mailing. The city clerk shall forward by mail to the property owner specified in Paragraph 1 of Section 8-104 a statement of the actual cost and demanding payment. In cleaning and mowing are performed by the city, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

Section 8-106 LIEN ON THE PROPERTY, CIVIL REMEDY.

If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing the statement, then within the next sixty (60) days, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located, and the same shall be levied upon the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of Thirty-Five Dollars (\$35.00) for each parcel of property. At any time prior to collection as provided in this Section, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, if any, the city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

Section 8-107 EXCEPTION

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this Article but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

Section 8-108 UNLAWFUL TO DEPOSIT RUBBISH.

It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this city.

Section 8-109 Outdoor and Open Burning

A. Purpose. This section is intended to promote, protect and safeguard the health, safety and welfare of the residents of the City of Cherokee by regulating the fire hazards of outdoor and open burning.

B. Applicability. This section applies to all outdoor and open burning within the City of Cherokee. Provided however:

1. This section does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2. This section does not apply to the burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

3. This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene, in a device intended for heating, construction or maintenance activities, if permitted under this municipal code.

C. Definitions. The following words shall have the meanings ascribed to them in this subsection as follows:

1. "Construction and demolition waste" shall mean building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction, remodeling, repair and demolition operations.

2. "Fire Chief" shall mean the Fire Chief of the City of Cherokee.

3. "Outdoor burning" shall mean open burning, as defined herein, but shall not include burning in an outdoor wood-fired boiler or patio wood burning unit.

4. "Open burning" shall mean kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

5. "Outdoor wood-fired boiler" shall mean a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

6. "Patio wood-burning unit" shall mean a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

7. Refuse shall mean any waste material except trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

D. General Prohibition. Open burning and outdoor burning are prohibited within the corporate limits of the City of Cherokee unless the burning is specifically permitted by this section. No person shall maintain or permit the maintenance of any open burning or outdoor burning except in strict compliance with this section.

E. Open Burning of Refuse and Construction and Demolition Waste. Open burning of refuse and construction and demolition waste is prohibited.

F. Controlled Burn Permit. The open burning of trees, logs, brush, stumps, attached or incidental leaves or grass clippings and agricultural burns is prohibited unless permitted by the terms of a Controlled Burn Permit in accordance with all of the following provisions:

1. A Controlled Burn Permit issued in accordance with subsection G of this section must be obtained prior to the open burning.

2. Open burning of trees, logs, brush, stumps and agricultural burns may not be conducted within One Thousand Feet (1000') from the nearest building or structure which is not on the same property. Open burning of piles of leaves and/or piles of grass clippings are not permitted as a part of any open burning.

3. No open burning shall occur during a county or state burn ban. In addition, the Cherokee Fire Chief is hereby authorized to proclaim a prohibition upon the burning or setting of fires to any combustibile material within the city when weather, drought or other natural conditions render any outside fires a danger to lives or property.

4. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways or the airport. Open burning shall be conducted in conformance with all local and state fire protection regulations.

5. Open burning shall be conducted only on the property on which the materials were generated.

6. Open burning is limited to daylight hours only.

7. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have available on the site of the open burning an adequate and available water supply or such other fire extinguishing equipment present as may be necessary for the total control of the fire.

G. Permits.

1. No person shall start or maintain any outdoor burning or open burning covered under this section in violation of any provision in this section and without first obtaining a Controlled Burn Permit issued by the Fire Chief or his designee.

2. The application shall state the street address of the burn, the description of the physical area or boundary of the burn, the date and time of the burn, the materials to be burned, and the quantities of the same. Whenever required by state regulation, the applicant must also obtain permission for the burn from the state department of environmental quality. Upon review of a completed application, the Fire Chief or his designee may issue a Controlled Burn Permit if he believes the burn may be conducted without unduly endangering the safety of persons or property within the city. As a part of the permit, and when deemed necessary to protect the health, safety and welfare of the City, the Fire Chief can determine that any open burning must be accomplished under the supervision of the fire department member(s) during any part or the entire period of the open burning, with the charges for such supervision to be billed to the permittee. An appropriate deposit shall be set by the City Manager and paid to the City prior to the issuance of the permit. In addition, the applicant shall reimburse the city for its costs in deploying firefighters to a burn which has exceeded any of the conditions described in the permit or application or becomes unmanageable. The minimum nonrefundable application fee for a Controlled Burn Permit shall be Twenty-five Dollars (\$25.00), plus such other required deposits or other charges which may be required

as hereinbefore provided. No Controlled Burn Permit shall exceed four (4) days.

3. When weather conditions warrant, the Fire Chief may temporarily suspend issuing open burning permits.

Section 8-110 REMOVAL OF DEAD ANIMALS.

The owner or any person having charge of any animal dying in this city, shall within twenty-four (24) hours after the death of such animal, remove its carcass, and failure to do so shall constitute a misdemeanor.

Section 8-111 UNLAWFUL TO LITTER.

A. Littering is defined as throwing any trash, refuse, waste, tin can, bottles or any other object or substance whatever upon the public streets, alleys, roadways and sidewalks of the city or upon any real property owned or occupied by another.

B. It is unlawful for any person to litter.

Section 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES.

It is unlawful for any person to throw from any automobile or motor vehicle being operated and driven upon and over the streets, alleys and roadways of the city any litter, trash, wastepaper, tin cans or any other substance or refuse whatever.

Section 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY.

A. It is unlawful for any person, firm or corporation, occupying any real property, either as tenant or owner, to allow trash, wastepaper, litter objects, bottles, tin cans or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.

B. It is unlawful for any person, firm or corporation occupying real property, either as tenant or owner, to allow accumulated trash, wastepaper, litter objects, bottles, tin cans or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements or otherwise to any adjoining or other real estate not so owned or occupied by the offender.

Section 8-114 ABANDONED REFRIGERATOR; APPLIANCES.

A. It is unlawful for any person to leave in a place accessible to children any abandoned or discarded ice box, refrigerator, or other container which has an airtight door with a lock or fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator, or container, without first removing the door, lock or fastener.

B. It is unlawful to utilize the premises of any property for the open storage of any stove or other appliance which has been abandoned, discarded or is in disrepair.

Section 8-115 UNLAWFUL TO USE ANOTHER'S CONTAINER

A. Any person who deliberately places, throws, drops, dumps, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on any public property or on any private property of another without consent of the property owner or in an owned or leased trash receptacle without consent of the owner or lessee of said trash receptacle shall be deemed guilty of a misdemeanor.

B. The discovery of three or more items which have been dropped, dumped, deposited, places or thrown at one location and which bear a common address in a from which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent person residing at such address committed the unlawful act.

C. Any person may report a violation of this Ordinance, if committed in their presence, to any municipal law enforcement officer. The officer shall then conduct an investigation into the allegations, if warranted. If a violation of this section has in fact been committed, and the officer has reason to believe a particular person or persons have committed the violation, a prosecution.

Section 8-116. DISCHARGING GRASS CLIPPINGS, VEGETATIVE MATERIAL, SAND, DIRT OR OTHER LITTER OR WASTE ONTO ANY STREET, ALLEY, GUTTER OR OTHER PUBLIC PLACE PROHIBITED.

No person shall discharge, or permit to be discharged, grass clippings, vegetative material, sand, dirt or other litter onto the public street, alley, gutter or other public place or permit the same to remain in the public street, alley, gutter or other public place. Persons owning or occupying property shall keep the sidewalk, street, alley, gutter or other public place abutting or

adjacent to their property free of grass clippings, vegetative material, sand, dirt or other litter. A violation of this section, by act or omission, shall be an offense and each continued day that such condition remains shall be deemed a subsequent offense.

ARTICLE 2

(RESERVED)

ARTICLE 3

NUISANCES

Section 8-301 DEFINITION.

A nuisance shall mean the doing of an act unlawfully or omitting to perform a duty, which act or omission:

1. Annoys, injures or endangers the comfort, repose, health and safety of others; or

2. Offends decency; or

3. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any lake or navigable river, stream, canal or basin, or any square, street highway or public parking; or

4. In any way renders other persons insecure in life, or in the use of property; or

5. Involves the maintenance of any building or structure within the city limits which by reason of age, dilapidation or decay is unsafe for occupancy; or constitutes a haven or refuge for vermin and rodents; or presents a fire hazard and endangers the security of other property; or

6. Permits the accumulation of rank vegetation, weeds, grass or other noxious matter or putrid substances; or in maintaining any trash, piles of rubbish, manure or other refuse which is dangerous to health or which in any manner constitutes a fire hazard.

State Law Reference: Similar provisions, 50 O.S. Section 1.

Section 8-302 UNLAWFUL TO MAINTAIN NUISANCE.

No person shall create or maintain a nuisance or permit it to

be created or maintained upon property owned by him or under his control.

Section 8-303 ABATEMENT.

A. In addition to prosecution for violation of Section 8-302, whenever a nuisance is found to exist, the City Manager may cause notice thereof to be given to the person maintaining or creating the nuisance or to the person owning or having control of the property upon which said nuisance exists, to abate such nuisance within the period of time stated in the notice, which shall be not less than three (3) days from the receipt of said notice. The notice shall be served personally or by certified mail. In the event the address is unknown or the person cannot be located the notice shall be posted upon the property involved and published in the official paper of the city for a period of five (5) days. If notice is published the person in charge shall have ten (10) days from the last publication in order to abate such nuisance. In the event the nuisance is not abated after such notice as required, the City Manager shall have the authority to abate it and charge the cost thereof to the person creating, maintaining or owning or in control of the property upon which the nuisance is created or maintained, and the person so charged shall be afforded an opportunity to appear and present witnesses and be heard. Should the governing body find that a nuisance has been created or maintained the person responsible shall be given a reasonable length of time to abate it.

B. Any person who fails to abate any nuisance as required by this article shall be guilty of an offense.

State Law Reference: Authority to define, prevent, remove and abate nuisances, 11 O.S. Section 22-121.

ARTICLE 4

JUNKED, WRECKED MOTOR VEHICLES

Section 8-401 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded, or left about the city in places other than authorized junk yard or other areas authorized by the City Commission and which tend to do any one or more of the followings:

1. Impeded traffic in the streets;

2. Reduce the value of private property;
3. Create fire hazards;
4. Extend and aggravate urban blight; or
5. Result in a serious hazard to the public health, safety, comfort, convenience and welfare of the residents of the city, are hereby declared to be a nuisance.

Section 8-402 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein.

1. "Appropriate screen" shall mean an aesthetic barrier with a minimum opaque barrier not less than five (5) feet in height enclosing the junk motor vehicle. Such screen or barrier shall be dense landscaping, or a solid lumbar or masonry fence, wall or combination thereof, and may include the use of the walls of the residence or other building or structure, similar existing fencing, similar existing dense landscaping, all of which shall be of at least an equivalent height and capacity, and located on such property to provide for such enclosure. If solid lumber fencing is used, it shall be treated or painted in earth tone colors.
2. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto an unexpired license plate or plates, the condition of which is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and is incapable of being moved under its own power and is not exempt from compliance by Section 8-403.B. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean any motor vehicle located on any private or public property in the condition of which such motor vehicle is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and incapable of being moved under its own power, and is not exempt from compliance by Section 8-403.B, and remains in such condition for a period of thirty (30) days, without regard to whether such motor vehicle has lawfully affixed thereto an unexpired license plate or plates. "Junk Motor Vehicle"

or "junk vehicle" or "abandoned motor vehicle" shall also mean motor vehicles used in demolition races or derbies or similar contests.

3. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.
4. "Private property" means any real property within the city which is privately owned and which is not public property as defined in this Section.
5. "Public property" means any street, alley, or highway which shall include the entire width between the boundary lines of every way publicly owned or maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.

Section 8-403 STORING, PARKING OR LEAVING JUNK MOTOR VEHICLE OR ABANDONED MOTOR VEHICLE ON PUBLIC OR PRIVATE PROPERTY PROHIBITED; AND DECLARED A NUISANCE; EXCEPTIONS.

A. No person shall park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle of any kind, whether attended or not, upon any public or private property within the city. The presence of a junk motor vehicle or parts thereof, on private or public property is hereby declared a nuisance and a public offense and may be abated as such in accordance with the provisions of this Chapter.

- B. This Section shall not apply to any motor vehicle:
- a. Enclosed within a building on private property;
 - b. Completely within an appropriate screen in the side or back yard on private property;
 - c. Held, stored or parked in connection with a lawfully operated business enterprise and on property operated in the appropriate zone, pursuant to the zoning laws of the city;
 - d. In operable condition and is not a junk motor vehicle as defined herein.

- e. Motor vehicles parked on private property which display an unexpired license plate or plates, but which motor vehicles are temporarily out of service due to mechanical breakdown or damage, but only so long as the owner thereof makes diligent efforts to place same back into operable condition and shall not remain on such private property in such condition for longer than thirty (30) days.

Section 8-404 PRESUMPTION OF ABANDONMENT.

A rebuttable presumption shall exist that a motor vehicle has been abandoned when:

1. Weed or grass undergrowth would indicate to a reasonable person that the motor vehicle has not been moved, thereby permitting such growth to occur;
2. One or more wheels are flat or missing and the motor vehicle displays an expired license;
3. Portions of the motor vehicle which are needed for its operation or control are missing;
4. The city has received reports from others as to the length of time such motor vehicle has been standing in one place without being moved, or that parts are being taken from or added to such vehicle, indicating a salvage or garage operation; or
5. Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated.

Section 8-405 NOTICE TO REMOVE FROM PUBLIC PROPERTY.

Whenever it comes to the attention of the Code Enforcement Officer that any junk vehicle, as defined herein, exists as a public nuisance in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the event that there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. A written, public nuisance "Notification to Remove" shall be placed on the vehicle advising the owner of the violation of city code and of the twenty-four (24) hours to remove the nuisance from the public property. Concurrent with the abatement notice placed on the motor vehicle, the owner of the motor vehicle shall be issued a citation. Failure to remove the motor vehicle shall be an offense and shall be punishable as provided in Section 8-108 of

this code.

SECTION 8-406 RESPONSIBILITY FOR REMOVAL FROM PUBLIC PROPERTY.

Upon proper notice and opportunity to be heard, the owner of the junk vehicle or other abandoned, wrecked, dismantled, or inoperative motor vehicle on public property shall be liable for all expenses reasonably incurred by the removal and disposition.

SECTION 8-407 NOTICE TO REMOVE FROM PRIVATE PROPERTY.

A. The Code Enforcement Officer shall give notice of removal to the owner or occupant of the private property where any junk vehicle or any abandoned, wrecked, dismantled or inoperative motor vehicle is located at least ten (10) days before the time set for compliance. It shall constitute sufficient notice when a copy of a Notice to Remove is posted in a conspicuous place upon the private property upon which the vehicle or boat is located.

B. The Notice of Removal shall contain the demand for removal within ten (10) days, and the Notice to Remove shall state that upon failure to comply with the Notice to Remove, the city shall prosecute a criminal complaint for failure to abate the nuisance or undertake such removal with the cost to be levied against the owner of the junk vehicle or the occupant of the property.

SECTION 8-408 HEARING.

A. Any person to whom any Notice to Remove is directed pursuant to the provisions of this chapter or any other interested party, or any duly authorized agent thereof, may file a written request for hearing before the City Manager within the ten (10) day compliance period, for the purpose of contesting the city's demand for removal.

B. The hearing shall be held as soon as practicable. Notice of the time and place of hearing shall be directed to the person making the request. The City Manager may take any action based on the evidence presented.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly authorized agent, shall appear in municipal court pursuant to the citation and summons. Those persons convicted of violating these provisions, including the failure to abate a public nuisance pursuant to this chapter shall be assessed court costs and assessments in addition

to any fine assessed by the municipal court. If the public nuisance is abated prior to the hearing date stated on the summons, and the person issued the summons to appear in municipal court signs an affidavit before the court clerk attesting to the abatement, the city attorney may recommend to the municipal court that charges be dropped.

SECTION 8-409 REMOVAL OF MOTOR VEHICLES FROM PROPERTY.

If the violation described in the Notice to Remove has not been remedied within the ten-day period of compliance, or in the event that a notice requesting hearing is timely filed, a hearing had, and the existence of the violation is affirmed by City Manager, the city attorney shall institute and prosecute additional charges on a daily basis, for failure to abate the nuisance, and the city shall in the discretion of the Code Enforcement Officer to take possession of the junk vehicle and remove it from the premises. It shall be unlawful for any person to interfere with or hinder anyone whom the city or the Code Enforcement Officer authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

SECTION 8-410 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such junk vehicle, the Code Enforcement Officer shall give notice to the registered owner of the junk vehicle, if known, that the vehicle or motor vehicle was removed, that the vehicle or motor vehicle, has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored and the proper procedure for redeeming the vehicle, including cost of redemption.

SECTION 8-411 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR VEHICLES.

The owner of motor vehicle impounded under the provisions of this chapter may redeem such motor vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment of the actual and reasonable expense of removal plus storage.

SECTION 8-412 PENALTY; CONTINUING VIOLATIONS.

In addition to the procedures for removal of vehicles, any person who shall violate any of the provisions hereof shall upon conviction be deemed guilty of an offense against the city. Each act in violation of any of the provisions hereof shall constitute a separate offense and may be chargeable as such. Each day's

continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such as provided in Section 1-108 of this code.

Section 8-413 OPEN STORAGE OF MATERIALS

The entire front yard area of any residentially zoned lot located in the City, to include side yards not appropriately screened as provided in Section 8-402.1 hereinabove, shall be kept and maintained free and clear of all building and automotive materials, trash, junk, debris, household appliances, chairs, couches, all manner of other items constructed for use inside the building or residence, junk motor vehicles and camper shells not mounted on motor vehicles or appropriately stored, and boats and trailers, including utility trailers, filled with trash, junk and debris.

ARTICLE 5

DILAPIDATED AND UNSECURED BUILDINGS; GRAFFITI

Section 8-501 DEFINITIONS.

- A. As used in this Article:
 - 1. "Dilapidated building" means:
 - a. a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public,
 - b. a structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public,
 - c. a structure which is determined by the municipal governing body or City Manager of the municipal governing body to be an unsecured building, as defined by Section 8-504 of this Article, more than three times within any twelve-month period,
 - d. a structure which has been boarded and secured, as defined by Section 8-504 of this Article, for more than eighteen (18) consecutive months, or

- e. a structure declared by the municipal governing body to constitute a public nuisance.

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

Section 8-502 CONDEMNATION OF DILAPIDATED BUILDINGS; NOTICE
REMOVAL.

The city may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this Article:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing provided for herein may be held. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to the provisions of this Section; or

2. The City Manager is hereby designated by the City Commission to carry out the duties of the City Commission specified in this Article. A hearing shall be held by the City Manager of the city to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the City Manager may cause the dilapidated building to be torn down and removed. Any enforcement decision of the City Manager shall require the affirmative vote of a majority of the Board members present at such hearing. The City Manager shall fix

reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the City Manager at the hearing, and stating that the city claims a lien in the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the city are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within the dates fixed by the City Manager. The property owner shall have the right of appeal to the City Commission from any order of the City Manager. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered. Any action to challenge the order of the City Manager or municipal governing body (provided a written notice of appeal was timely filed with the city clerk), shall be filed with an appropriate judicial forum within thirty (30) business days from the date of the order.

Section 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS

A. The City Manager shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The city clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to the mortgage holder at the address provided in Section 8-502. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the city dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

B. When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the

city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. At any time prior to collection as provided for in this paragraph, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, the city clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

C. Nothing in the provisions of this Article shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

D. The officers, employees or agents of the city shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this Article or as otherwise prescribed by law.

E. The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-504 BOARDING AND SECURING DILAPIDATED BUILDINGS, PROCEDURE, NOTICE.

A. After a building has been declared dilapidated, as provided in this Article, and before the commencement of the tearing and removal of a dilapidated building, the City Commission may authorize such a building to be boarded and secured. However, if the dilapidated building is vacant and unfit for human

occupancy, the city may authorize the structure to be demolished pursuant to this Article.

B. The city may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with Article 1.

C. The City Manager is hereby designated by the City Commission to carry out the following duties of the City Commission. The City Manager may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the City orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in Section 8-502. At the time of mailing of notice to any property owner or mortgage holder, the city clerk shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 11 O.S. Section 1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the city or City Manager pursuant to the provisions of this Section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with subsection C.9. of this Section, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the municipal governing body; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder.

2. The owner of the property may give his written consent to the city authorizing the boarding and securing of such unsecured building and to the payment of costs incurred thereby. By giving the written consent, the owner waives any right the owner has to a hearing by the City Manager and/or Commission;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the City Manager to determine whether the boarding and securing of the unsecured building would

promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of Article 1. In making such determination, the City Manager shall apply the following standard: the City Manager may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building.

4. After the City Manager orders the boarding and securing of the unsecured building, the city clerk shall immediately file a notice of lien with the county clerk describing the property, stating the findings of the city at the hearing at which such building was determined to be unsecured, and stating that the city claims a lien on the property for the costs of boarding and securing the building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

5. Pursuant to the order of the City Manager, the agents of the city are granted the right of entry on the property for the performance of the boarding and securing of the building and for the performance of all necessary duties as a governmental function of the city;

6. After an unsecured building has been boarded and secured, the City Manager shall determine the actual costs of such actions

and any other expenses that may be necessary in conjunction therewith including the cost of the notice and the mailing. The city clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs to any property owners and mortgage holders as provided in Section 8-503. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city clerk shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the city boards and secures any dilapidated building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

7. When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the dilapidated building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the city clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. The costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

8. The property owner or mortgage holder shall have a right of appeal to the City Commission from any order of the City Manager. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered.

9. If the city causes a structure within the city limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the city clerk shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the city clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in subsection 1 of this Section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in subsection 7.

10. The City Commission may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this Section even though such building has not been declared, by the governing body, to be dilapidated.

11. For the purposes of this subsection:

- a. "boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure,
- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure, and

- c. "unfit for human occupancy" means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

Section 8-505 OTHER POWERS.

Nothing in the provisions of this Article shall prevent the city from abating an unsecured dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

Section 8-506 EXCEPTION.

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-507 REMOVAL OF GRAFFITI.

A. The city may cause graffiti to be removed from property within the city limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the city authorizing removal of the graffiti. By giving such written consent, the owner and the tenant each waives the right to notice and a hearing by the city as otherwise required by this Section;

2. If the consent of the property owner and the tenant, if any, to remove graffiti from the property cannot be obtained, the city may remove the graffiti without such consent pursuant to the procedures set forth in this Section;

3. To remove graffiti from property without the consent of the property owner and the tenant, if any, at least ten (10) days' notice shall be given by mail directed to the address shown by the current year's tax rolls in the county treasurer's office. Notice to the tenant, if any, shall be given by mail directed to the property address. The notice shall order the property owner and the tenant, if any, to remove graffiti from the property and shall further state that unless such work is performed within twenty (20) days of the date of the notice the work shall be done by the city. At the time of mailing of notice to the property owner and the tenant, if any, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing

and the name and address of the maillee(s). In addition, notice shall be given by posting a copy of the notice on the property at least one time not less than ten (10) days prior to any hearing or action by the city. If the City Commission anticipates summary abatement of graffiti in accordance with the provisions of this Section, the notice shall state that any accumulations of graffiti on the property occurring within one (1) year from and after the date of the notice may be summarily abated by the city without a hearing and further prior notice to the property owner or the tenant, if any, except by posting of notice at least one time on the property once not less than two (2) business days prior to such summary abatement.

4. A hearing may be held by the City Commission to determine whether the accumulation of graffiti on the property has caused the property to become detrimental or a hazard to the health, safety, or general welfare of the public and the community;

5. Upon finding that the condition of the property constitutes a detriment or hazard, and that the property, the public, and the community would be benefitted by removal of such conditions, the agents of the city are granted the right of entry onto the property for the removal of the graffiti thereon and for performance of the necessary duties as a governmental function of the city.

6. The city hereby designates the City Manager to perform the functions set forth in this Section. The property owner and the tenant, if any, shall have a right of appeal to the City Commission from the decision of the City Manager. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by the city to a property owner and tenant, if any, ordering graffiti to be removed from property within the municipal limits in accordance with the procedures provided for in subsection A of this Section, any subsequent accumulations of graffiti on the property occurring within a one (1) year period may be summarily abated without further prior notice to the property owner or the tenant, if any. However, prior to the summary abatement by the city, notice thereof shall be posted at least one time on the property not less than two (2) business days prior to such summary abatement. This subsection shall not apply if the records of the county clerk show that the

ownership and/or tenancy of the property was transferred after notice was given pursuant to subsection A of this Section.

C. Removal of graffiti by a city pursuant to the provisions of this Section shall be performed at the sole expense of the city. In removing the graffiti, the city shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

D. Nothing in the provisions of this Section shall prevent the city from abating graffiti as a nuisance or otherwise exercising its police power to protect the health, safety, or general welfare of the public.

E. The city and its officers, employees or agents shall not be liable for any damages or loss of property due to the removal of graffiti performed pursuant to the provisions of this Section.

F. For the purposes of this Section:

1. "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public;

2. "Graffiti" means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fence, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, or by an authorized agent for such owner or tenant;

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;

4. "Removal," "remove," or "removed," when used in relation to the eradication of graffiti means the act of taking graffiti off of, or masking the presence of graffiti on, a rock, tree, wall, bridge, fence, gate, building or other structure; and

5. "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property.

ARTICLE 6

ENFORCEMENT

Section 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it may be construed to mean the director of the county health department or his duly designated representative unless another person is designated by the City Manager. It is the intent and purpose of the City Commission to delegate the enforcement of the health ordinances of this city as set out in this Section and any such decisions rendered under this Section shall be subject to review by the Commission upon an appeal from an offender.

Section 8-602 OBSTRUCTING HEALTH OFFICER.

It is unlawful for any person to willfully obstruct or interfere with any health officer or officer charged with the enforcement of the health laws of this city.

Section 8-603 QUARANTINE; VIOLATIONS.

It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.

Section 8-604 APPOINTMENT OF CODE ENFORCEMENT OFFICER

The City Manager shall appoint the Code Enforcement Officer. The Code Enforcement Officer is authorized to enforce the provisions of the Cherokee Municipal Code, 2014, as it now or may hereinafter be constituted, contained in Chapter 5 "Building Regulations and Codes", Chapter 8 "Health and Sanitation", Chapter 12 "Planning, Zoning and Development", other miscellaneous national and international codes adopted by reference within the previous cited chapters, and other sections of the Code as directed by the

City Manager (hereinafter referenced to as "code enforcement violations"). The Code Enforcement Officer shall have the authority to issue code enforcement violations to any person, firm, corporation or any entity who violates such provisions of this Code.

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CHAPTER 9: LICENSING AND BUSINESS REGULATIONS

ARTICLE 1

OCCUPATIONAL LICENSE FEES

Section 9-101 LICENSE REQUIRED; FEE LEVIED ON CERTAIN
OCCUPATIONS.

A. It is unlawful for any person to engage in, exercise or pursue any business, profession, trade, occupation, privilege or other activity for which a license is required or a license fee or tax is levied by any provision of this code or other ordinance of the city, without paying the license fee or tax and securing and possessing a valid license therefor.

B. A license fee is levied on every person engaging in, exercising, or pursuing any of the businesses, professions, trades, occupations, or privileges in this city, as may be provided by the City Commission.

C. In order to receive a license under this code, every person, firm or corporation regulated pursuant to this Section is required to possess a valid and current state sales tax permit if such person, firm or corporation is a vendor subject collection of sales taxes under the sales tax code of the city and state. A copy of this permit shall be provided by the applicant for a license to the city clerk prior to issuance of the city license.

Cross Reference: See also 3-101 et seq. on alcohol and beer licenses, 5-201 et seq. on plumbers, electricians.

State Law Reference: Municipal authority to tax and regulate occupations, 11 O.S. Section 22-106, 22-107.

Section 9-102 SEPARATE LICENSES REQUIRED.

Every person who engages in, exercises, or pursues a business, profession, trade, occupation, or privilege for which a license is required, at or from more than one place in the city, or who engages in, exercises, or pursues more than one such business, profession, trade, occupation, or privilege, shall pay the fee, and secure a separate license, for each such place or for each such business, profession, trade, occupation, or privilege.

Section 9-103 LICENSE TO BE DISPLAYED.

Every holder of a license to engage in, exercise, or pursue a business, profession, trade, occupation, or privilege, shall conspicuously display the license at all times in some part of his place of business or activity where a person who has entered the place may readily see it; or, if he has no particular place of business or activity, shall carry the license and shall display it to any person who request to see it. In lieu of the manner of displaying such licenses provided above, when licenses are required for coin-operated music or amusement device, vending machines, and similar devices and equipment, the license may be placed on or attached to such device or equipment in such position and manner that it will be clearly visible, and shall be so placed or attached if the license so states on its face. It is unlawful to fail or refuse to display the license as required in this Section.

Section 9-104 LICENSE MAY BE REVOKED.

Any license issued by the city to any person to engage in, exercise, or pursue any business, profession, trade, occupation, or privilege, may be revoked by the City Commission after adequate opportunity for a hearing.

Section 9-105 TRANSFER OF LICENSE PROHIBITED.

The assignment or transfer of licenses shall not be permitted in this city.

State Law Reference: License may not be transferred, 11 O.S. Section 22-107.

Section 9-106 DUPLICATE LICENSE.

Whenever any license to engage in, exercise, or pursue a business, profession, trade, occupation, or privilege, has been lost or destroyed without any wrongful act or connivance by the holder, the city clerk, on application, shall issue a duplicate license for the unexpired time. Before the duplicate is issued, the holder shall make, and file with the city clerk an affidavit that the licensee has in fact lost or destroyed the license without any wrongful act of connivance by the licensee.

Section 9-107 ISSUANCE AND EXECUTION.

The city clerk shall issue a license required by this code or other ordinance, when the applicant has filed a proper application, therefor, paid the required tax or fee and complied with all other requirements prescribed for obtaining such license. Each such license so issued shall be signed by the City Manager and city clerk and the corporate seal of the city shall be affixed thereto. Such license shall be in suitable form and express the purpose for which it is issued.

Section 9-108 SUBJECT TO STATE LAW AND CITY ORDINANCES.

All licenses shall be issued subject to the ordinances of the city and the laws of the state. No license shall be construed as authority to do or omit to do any act in violation of law or ordinance.

Section 9-109 APPEALS.

In the event any applicant shall be denied a license by the city clerk, said applicant shall have the right to appeal to the City Commission at the next regularly scheduled meeting, and said City Commission shall have the right and power to overrule said denial and to issue a license.

ARTICLE 2

SOLICITORS AND CANVASSERS

Section 9-201 DEFINITIONS.

A. As used in this Article the terms "solicitor" or "canvasser," shall mean any individual, traveling by foot or any means whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of every nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

B. As used in this Article the term "peddler" shall include the words "hawker" and "huckster" and shall mean any person who

travels by foot or by any type of conveyance from place to place, or from street to street, carrying, conveying or transporting goods, wares or merchandise of whatsoever nature, offering and exposing the same for sale, or who without traveling from place to place, shall sell or offer the same for sale from any vehicle or conveyance.

C. As used in this Article, the term "itinerant merchant/transient street vendor" shall mean any person engaged in the business or occupation of selling any merchandise, products or services from a temporary indoor or outdoor location obtained from an owner or lease holder or obtained by occupying the location without permission, or by occupying a location on a street right-of-way.

D. As used in this Article, the term "coupon book seller" shall mean any individual, traveling by foot or any means whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking or attempting to take orders for sales of coupon books which are to be used for discounts or free goods, wares, merchandise, personal property of every nature whatsoever, for future delivery, whether or not such individual has, carries or exposes for sale a sample of the coupon book for sale or whether he is collecting advance payments on such sales or not.

E. The definitions of solicitor, canvasser, peddler, hawker, huckster, itinerant merchant/transient street vendor and coupon book seller also includes any person who, without invitation, goes on private or public property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes excepting the following shall be specifically exempted from regulation pursuant to these provisions:

1. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
2. Wholesale trade shows or conventions;
3. Reserved;
4. Any general sale, fair, auction, or bazaar sponsored by any church;

6. Any sale sponsored by public or private schools, boy scouts, girl scouts, campfire girls and similar organizations for children;
7. Trade fairs;
8. Flea markets;
9. Garage sales held on the premises devoted to residential use;
10. Sales of agricultural products, including Christmas trees and firewood;
11. Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;
12. Any person who maintains a permanent place of business in this state and has a registered agent therein upon whom process, notice, or demand permitted by law may be made;
13. Sales of Bibles.

F. As used in this Article the term "special event" shall mean any event sponsored by Main Street and approved by the City and all such other events designated as a special event by motion or resolution of the Cherokee City Council. As used in this Article the term "special event area" shall mean the corporate limits of the City, as now constituted, or hereinafter amended.

Section 9-202 FRAUD, ETC.

It shall be unlawful and an offense for any solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller:

1. To harass, threaten, coerce, or otherwise unreasonably apply duress to any citizen or otherwise breach the peace while attempting to perform the services of a solicitor or coupon book seller;

2. To fail to provide any goods or services which have been paid for, in full or in part;

3. To defraud, trick, cheat or otherwise mislead any person into subscribing for or purchasing any good or service when the

solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller knows or should know that the good or service will not be provided or delivered.

Any person denied a license may appeal to the city commission by filing notice thereof with the city clerk within five (5) days of the denial. The city commission shall render a decision at its next regular meeting.

Section 9-203 REQUIRED.

A. No person shall engage in the business of solicitor without first having obtained a solicitor's license.

B. No person shall engage in the business of peddler without first having obtained a peddler's license.

C. No person shall engage in the business of itinerant merchant/transient street vendor without first having obtained an itinerant merchant/transient street vendor's license.

D. No person shall engage in the business of coupon book seller without first having obtained a coupon book seller's license.

E. No person shall employ any person covered by subsection A or D hereof without having obtained a solicitor's business license or a coupon book seller's business license.

F. Notwithstanding any provision contained in this Article to the contrary, no license for a solicitor, peddler, coupon book seller, canvasser, hawker, huckster, or itinerant merchant/transient street vendor shall be effective during special events within the special event area. The special event organizer/sponsor is hereby authorized to issue special event vendor permits, which permits shall be in compliance with the provisions of this Article, during special events within the special event area. No person or other entity shall operate as a solicitor, peddler, coupon book seller, canvasser, hawker, huckster or itinerant merchant/transient street vendor during any special event within the special event area without having obtained a special event vendor permit from the special event organizer/sponsor. The provisions contained in this Article relating to persons and entities operating as a solicitor, peddler, coupon book seller, canvasser, hawker, huckster or itinerant merchant/transient street vendor shall equally apply to persons

and entities operating pursuant to a special event vendor permit issued by the special event organizer/sponsor during special events within the special event area.

State Law Reference: Authority to license solicitors, 11 O.S. Section 22-106.

Section 9-204 APPLICATION.

An application for a solicitor's, peddler's, itinerant merchant/transient street vendor's or coupon book seller's license shall be sworn to and filed with the city clerk. It shall contain the following:

1. Full name, description, birth date, and social security number of each individual applicant.
2. Address, both permanent and local.
3. Nature of business and kinds of goods to be sold, and if applicant is a farmer or truck gardener, whether said goods are produced by him on land he owns, cultivates and controls.
4. If employed by another, the name and address of applicant's employer together with a brief description of credentials showing the exact relationship.
5. Description and license number or other identification of any vehicle to be used.
6. A statement as to whether or not the applicant has been convicted of a felony, the nature of the offense and the punishment or penalty assessed therefor.
7. Verification of payment of sales tax to the Oklahoma Tax Commission.
8. Whether merchandise or goods are tax exempt and exemption from Oklahoma Sales Tax claimed.
9. The names of at least two (2) reliable property owners in the city, provided, however, for itinerant merchant/transient street vendors, two (2) reliable property owners from within the state will suffice, who will certify as to the applicant's good character and business responsibility, or other available evidence as to good character and business responsibility of the applicant.

10. Documents from the county court clerk's office that establish that the business has complied with state law, in particular the requirements of posting bond pursuant to Title 19 of Oklahoma Statutes Section 1608. This provision is to apply only to itinerant merchant/transient street vendors.

Section 9-205 SOLICITOR'S BUSINESS LICENSE AND COUPON BOOK
SELLER'S LICENSE; APPLICATION.

An application for a solicitor's business license or a coupon book seller's business license shall be sworn to and filed with the city clerk. It shall contain the following:

1. Name and description of applicant, and, if applicable, corporation, business or firm represented.
2. Address of applicant, both permanent and local, and, if applicable, address of corporation, business or firm represented.
3. A description of the nature and type of business to be carried on, including kinds of goods to be sold. For coupon book sellers, a copy of all contracts with merchants for delivery of goods and services. For solicitors and coupon book sellers, a copy of the sales pitch shall be furnished the city if one is to be made over the telephone.
4. Description and license number or other means of identification of automobiles or means of transportation to be used, if any.
5. The names of at least two (2) reliable property owners in the city who will certify as to the applicant's good character and business responsibility, or other available evidence as to good character and business responsibility of the applicant.
6. A statement as to whether or not the applicant or any employees of applicant have been convicted of a crime or misdemeanor or violation of any municipal ordinance and if so, thenature of the same and the punishment assessed therefor.
7. Verification of payment of sales tax to the Oklahoma Tax Commission.
8. Whether merchandise or goods are tax exempt and exemption from Oklahoma and local sales tax claimed.
9. The names addresses and description of all solicitors and

peddlers employed by applicant.

Section 9-206 INVESTIGATION AND ISSUANCE.

A. Upon receipt of the application for a solicitor's license, solicitor's business license, coupon book seller's license, or coupon book seller's business license, the chief of police shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public.

B. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the chief of police shall so endorse on the application and return it to the director of finance, and no license shall be issued.

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall so endorse on the application and return it to the director of finance who shall then issue the license upon payment of the required fee.

D. The chief of police may deny a license under this article for any of the following reasons:

- A. The location and time of solicitation or peddling would endanger the safety and welfare of the licenses or their customers;
- B. An investigation reveals that the applicant falsified information on the application;
- C. The applicant has been convicted of a felony, a misdemeanor or ordinance involving a sex offense, trafficking in controlled substances, or any violent acts against person or property, such conviction being entered with ten (10) years preceding the date of the application;
- D. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;
- E. There is no proof as to the authority of the applicant to serve as an agent to the principal; or

- F. The applicant has been denied a permit under this Article within the past three (3) years, or been convicted of an offense prohibited by this article within the past three (3) years, unless the applicant can and does show the chief of police that the reason for such earlier denial or conviction no longer exist.

Section 9-207 FEE.

No person shall be issued a solicitor's, peddler's, itinerant merchant/transient street vendor's, coupon book seller's license, solicitor's business license or coupon book seller's business license until he pays a license fee as set forth in the city's fee schedule.

Section 9-208 EMPLOYER OF SOLICITOR OR COUPON BOOK SELLER VICARIOUSLY LIABLE FOR ACTS OF SOLICITOR OR COUPON BOOK SELLER.

For purposes of the suspension or revocation of a solicitor's business license or a coupon book seller's license, it shall be sufficient to show that any solicitor or seller in the employ of such license holder has violated any provisions of this article.

Section 9-209 TERM.

Any license issued pursuant to the terms of this article shall expire one year from the date of its issuance.

Section 9-210 DISPLAY.

Solicitors, peddler, itinerant merchant/transient street vendors and coupon book sellers employing solicitors, peddlers, itinerant merchant/transient street vendors and coupon book sellers shall exhibit their licenses at the request of any person.

Section 9-211 TRANSFER.

No license issued under the provisions of this article shall be transferable.

Section 9-212 EXCEPTION FOR INTERSTATE COMMERCE.

If any individual, whether a solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller is engaged in interstate commerce, the individual must bring in proof of the

interstate commerce nature of his business to the director of finance. The director of finance will make a determination of whether or not the business does involve interstate commerce. If it does, a license will be issued and the fee will be waived. If not, the individual can be licensed pursuant to the licensing requirements in this chapter. A denial of the interstate commerce exception of the fee process may be appealed to the city commission.

Section 9-213 OTHER REGULATIONS

A. No solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller, or any other person performing such same or similar operations although exempted from the requirement to obtain a license hereunder, shall be permitted to operate in the following areas of public space:

1. Within 25 feet of any street intersection or pedestrian crosswalk.
2. Within 25 feet of any driveway, loading zone or bus stop.
3. On a median strip of a divided roadway
4. Against display window of fixed location businesses.
5. Any area within 1000 feet of a hospital, or public or private school.
6. Within 25 feet of any fire hydrant or fire escape.
7. Within 100 feet of any parking spaces or access ramp for persons with disabilities.

B. No solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller, or any other person performing such same or similar operations although exempted from the requirement to obtain a license hereunder, shall do any of the following:

1. Unduly obstruct pedestrian or motor vehicle traffic flow.
2. Obstruct traffic signals or regulatory signs.
3. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public

attention.

4. Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
- C. The provisions of this Section shall not apply to:
 1. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;
 2. The placing and maintenance of unattended stands or sales devices for the sale, display, or offering for sale of newspapers, magazines, periodicals and paper bound books;
 3. The distribution of free samples of goods, wares and merchandise by an individual from his person.

ARTICLE 3

CLASSIC CABLE D/B/A CEBRIDGE CONNECTIONS FRANCHISE

Section 9-301 DEFINITION OF TERMS

For the purpose of this Article, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- a. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.
- b. "Basic Cable" means the tier of Video Service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.
- c. "Cable Service" means (I) the one-way transmission to Subscribers of Video Programming or other programming service, and (ii) Subscriber interaction, if any, which

is required for the selection or use of such Video Programming or other programming service.

- d. "Cable System" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other equipment that is designed to provide Video Service or other service to Subscribers.
- e. "FCC" means Federal Communications Commission, or successor governmental entity thereto.
- f. "Franchise" means the initial authorization, or renewal thereof, issued by Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Video System for the purpose of offering Video Service or other service to Subscribers.
- g. "Franchising Authority" means the City of Cherokee, Oklahoma, or the lawful successor, transferee, or assignee thereof.
- h. "Grantee" means Classic Cable of Oklahoma d/b/a Cebridge Connections, or the lawful successor, transferee, or assignee thereof.
- I. "Gross Revenues" means the monthly revenues for the provision of Video Service received by Grantee from Subscribers located within the Service Area from Basic, Extended Basic Service and all other Video Programming Offerings. "Gross Revenues" does not include any taxes or fees on Video Service which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by Grantee on behalf of such governmental unit or agency, or revenues derived from installation or repair charges.
- j. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- k. "Public Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge,

land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by Franchising Authority in the Service Area which shall entitle Franchising Authority and Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Video System. "Public Way" also means any easement now or hereafter held by Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle Franchising Authority and Grantee to the use thereof for the purposes of installing or transmitting Grantee's Video Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Video System.

1. "Service Area" means the present municipal boundaries of Franchising Authority and shall include any additions thereto by annexation or other legal means, except as limited by the technology available to Grantee as it presently exists or may exist in the future.
- m. "Subscriber" means a user of the Video System who lawfully receives Video Service or other service therefrom with Grantee's express permission.
- n. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Section 9-302 GRANT OF FRANCHISE

A. Grant. Franchising Authority hereby grants to Grantee a nonexclusive Franchise which authorizes Grantee to construct and operate a Cable System and offer Cable Service and other service in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions

thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

B. The Franchise granted pursuant to this Ordinance shall be for an initial term of fifteen (15) years from the passed and adopted date of the Franchise (December 28, 2005) unless otherwise lawfully terminated in accordance with the terms of this Ordinance.

C. Acceptance, Grantee shall accept the Franchise granted pursuant hereto by signing this Ordinance and filing same with the Town Clerk or other appropriated official or agency of Franchising Authority within sixty (60) days after the passage and final adoption of this Ordinance.

D. Favored Nations, In the event Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any Person other than Grantee to enter into Franchising Authority's streets and public ways for the purpose of construction or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law,

E. Renewal of Franchise. By mutual consent, the Grantee shall have the option to renew this Franchise for an additional period not to exceed ten (10) years. Should Grantee desire to exercise this option, it shall so notify the Franchising Authority in writing, not less than three (3) months prior to expiration of this Franchise.

Section 9-303 STANDARDS OF SERVICE

A. Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

B. Restoration of Public Ways. If during the course of Grantee's construction, operation or maintenance of the Video System there occurs a disturbance of any Public Way by Grantee, it

shall, at its expense, replace and restore such Public Way to a condition at least as good as the condition of the Public Way existing immediately prior to such disturbance.

C. Relocation at the Request of the Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than 30 days, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way. or remove from the Public Way, any property of Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by Franchising Authority; but Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to Grantee.

D. Relocation at the Request of the Third Party. Grantee shall, on the request of any Person holding a building moving permit issued by Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by Grantee, making such payment in advance; and (b) Grantee is given not fewer than ten (10) business days advance written notice to arrange for such temporary wire changes.

E. Trimming of Tree and Shrubbery Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so to prevent branches from coming in contact with Grantee's wires, cables or other equipment. Grantee shall be permitted to charge Persons who own, or are responsible for, such trees, or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utility of Franchising Authority for tree trimming. Grantee shall reasonably compensate Franchising Authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the System undertaken by Grantee. Such replacement shall satisfy any and all obligation Grantee may have to Franchising Authority or property owner pursuant to the terms of this Section.

F. Safety Requirements. Construction, installation, and maintenance of the Video System shall be performed in an orderly

and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area.

G. Aerial and Underground Construction. In those areas of the Service Area where all of the transportation and distribution facilities of the respective public utilities providing telephone communications and electric services are underground. Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transportation and distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section, in the event that all of the transportation and distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Article, Grantee shall only be required to construct, operate, and maintain, all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

H. Required Extensions of Service. The Cable System, as constructed as of the date of the passage and final adoption of this Article, substantially complies with the material provisions thereof. Grantee is hereby authorized to extend the Cable System as necessary, a desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least fifteen (15) Subscribers within 1320 cable-bearing strand feet (one quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to such Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under this Section.

I. Subscribers Charge for Extensions of Service. No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as Subscriber's request to locate his

cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of fewer than fifteen (15) Subscribers per 1320 cable-bearing strand feet of trunk or distribution cable. Cable Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. Potential subscribers shall bear the costs of the construction and other costs on a pro rata basis. Grantee may require payment in advance of the capital contribution in aid of construction borne by such potential subscribers.

J. Service to Public Buildings. Grantee shall provide without charge one (1) outlet of Basic Cable to Franchising Authority's office building(s) and public school building (s) that are passed by its Cable System. The outlets of Basic Cable shall not be used to distribute or sell Cable Service in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section, Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to such building or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Basic Cable are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Cable and the additional outlets relating thereto.

Section 9-304 REGULATION BY FRANCHISING AUTHORITY

A. Franchise Fee. Grantee shall pay to Franchising Authority a franchise fee equal to five percent (5) of Gross Revenues from the provision of Cable Services within the Franchise Area received by Grantee on a quarterly basis; provided, however that Grantee may credit against any such payments; (I) any tax, fee, or assessment of any kind imposed by Franchising Authority or other governmental

entity on cable operator or Subscriber, or both solely because of their status as such; (ii) Any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee, or assessment imposed, both on utility and cable operators and their services), and (iii) any other special tax, assessment, or fee such as a business, occupation and entertainment tax. For the purpose of this Section, the 3 month period applicable under the Franchise for the computation of the franchise fee shall tie a calendar quarter, unless otherwise agreed to in writing by Franchising Authority and Grantee. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a letter from a representative of Grantee showing the basis for the computation. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by Grantee is due. Unless within three (3) years from and after such payment due date Franchising Authority initiates a lawsuit for recovery of franchise fees in a court of competent jurisdiction, recovery shall be barred and Franchising Authority shall be stopped from asserting any claims whatsoever against Grantee relating to alleged franchise fee deficiencies.

B. Rates and Charges. Franchising Authority may not regulate the rates for the provision of Video Service or other service, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as may be authorized pursuant to federal and state law. From time to time, and at any time, Grantee has the right to modify its rates and charges, at its discretion and without consent of Franchising Authority, including, but not limited to, the implementation of additional charges and rates; provided, however, that Grantee shall give notice to Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

C. Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of the Franchise is denied or the Franchise is lawfully terminated, and Franchising Authority either lawfully acquires ownership of the Cable System or by its action lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern. Grantee and Franchising Authority agree that in the case of a lawful

revocation of the Franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. Franchising Authority further agrees that during such a period of time, it shall authorize Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to Franchising Authority. Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable system during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either Franchising Authority or Grantee. Notwithstanding anything to the contrary set forth in this Section, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

D. Transfer of Franchise. Transfer of Franchise. All of the rights and privileges and all of the obligations, duties and liabilities created by this Franchise shall pass to and be binding upon the successors of the Franchising Authority and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment or hypothecation of the Franchise by Grantee as security for debt without such approval; and provided further that transfers or assignment of this Franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities which are controlled or managed by the same person, persons, or entities, shall be permitted without the prior approval of the Franchising Authority ("intracompany transfer"). Grantee shall notify Franchising Authority in writing within 30 days from closing of such intracompany transfer.

Section 9-305 COMPLIANCE AND MONITORING

Books and Records. Grantee agrees that Franchising Authority may review such of Grantee's books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records

include, but are not limited to any public records. required to, be kept by Grantee pursuant to the rules, and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Franchising Authority agrees to treat any information disclosed to it by Grantee as confidential, and to disclose it only to employees, representatives, and agents of Franchising Authority that have a need to know, or in order to enforce the provisions hereof.

Section 9-306 INSURANCE, INDEMNIFICATION, AND BONDS OR OTHER SURETY

A. Insurance Requirements. Grantee Shall maintain in full force and effect during the term of the Franchise, at its a cost and expense, Comprehensive General Liability Insurance in the amount of \$1,000,000. Such insurance shall designate Franchising Authority as an additional insured.

B. Indemnification. Grantee agrees to indemnify, save and hold harmless, and defend Franchising Authority, its officers, boards and employees, from and against any liability for damage and for any Liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of Grantee's construction, operation or maintenance of its ,Cable System, including, but not limited to. reasonable attorney's fees and costs.

C. Bonds and other Surety. Except as expressly provided herein, Grantee shall not be required to obtain and maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. Franchising Authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the Franchise and the enforcement thereof Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Cable Service or other services. In order to minimize such costs, Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefore. Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or

other surety shall be required. In the event that one is required in the future Franchising Authority agrees to give Grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

Section 9-307 ENFORCEMENT AND TERMINATION OF FRANCHISE

A. Notice of Violation. In the event that Franchising Authority believes that Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged default.

B. Grantee's Right to Cure or Respond. Grantee shall have sixty (60) days from receipt of the notice described in Section 9-306.A to cure such default. In the event that, by the nature of the default, such default cannot be cured within the sixty (60) day period, to initiate reasonable steps to remedy such default and to notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

C. Public Hearing. In the event that Grantee fails to respond to the notice described in Section 9-307A pursuant to the procedures set forth in Section 9-307B, or in the event that the alleged default is not remedied, within one hundred twenty (120) days after Grantee is notified of the alleged default pursuant to Section 9-307A. Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of Franchising Authority which is scheduled at a time which is no fewer than five (5) business days therefrom. Franchising Authority shall notify Grantee of the time and place of such meeting and provide Grantee with an opportunity to be heard.

D. Enforcement. Subject to applicable federal and state law, in the event Franchising Authority determines, after such meeting, that Grantee is in default of any provision of the Franchise, Franchising Authority may:

1. Foreclose on all or any part of any security provided under the Franchise, if any, including, without limitation, any bonds or other surety; provided, however, that the foreclosure shall only be in such a manner and

in such amount as Franchising Authority reasonably determines is necessary to remedy the default;

2. Commence an action at law for monetary damages or seek other equitable relief;
3. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
4. Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages.

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of Franchising Authority to enforce prompt compliance.

E. Acts of God, Grantee shall not be held in default of the provisions of the Franchise, nor suffer any enforcement of penalty relating thereto, where such alleged default is caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

Section 9-308 UNAUTHORIZED RECEPTION

In addition to the criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any Person to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the Cable System without the express consent of Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any Person to tamper with, remove, or injure any property, equipment, or part of the Cable System or any means of receiving Cable Service or other service. Subject to applicable federal and state law, Franchising Authority shall incorporate into its criminal code, if not presently apart thereof, criminal misdemeanor law which shall enforce the intent of this Section.

Section 9-309 MISCELLANEOUS PROVISIONS

A. Preemption. If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude

the exercise of the like jurisdiction by Franchising Authority, the Jurisdiction of Franchising Authority shall cease and no longer exist.

B. Employment Requirements. Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.

C. Actions of Franchising Authority: In any action by Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditiously and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

D. Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

E. The notices or responses to Franchising Authority shall be addressed as follows:

The City of Cherokee, Oklahoma,
121 North Grand
Cherokee, Oklahoma 73728

The notices or responses to Grantee shall be addressed as follows:

Classic Cable of Oklahoma, Inc.
d/b/a Cebridge Connections
Attention: Michael Zarrilli
12444 Powerscourt Drive
Suite 450
St Louis, MO 63131

Franchising Authority and Grantee may designate such other address or addresses from time to time by giving written notice to

CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

ARTICLE 1

IN GENERAL

Section 10-101 ATTEMPT TO COMMIT AN OFFENSE
Section 10-102 AIDING AND ABETTING
Section 10-103 TITLES 21 & 37 OF THE OKLAHOMA STATUTES ADOPTED BY
REFERENCE

ARTICLE 2

OFFENSES INVOLVING INJURY TO PERSONS

Section 10-201 ASSAULT
Section 10-202 BATTERY
Section 10-103 FIGHTS OR QUARRELS
Section 10-104 - 10-106 RESERVED

ARTICLE 3

OFFENSES INVOLVING PROPERTY

Section 10-301 DEFINITIONS
Section 10-302 TRESPASS ON PUBLIC PROPERTY
Section 10-303 TRESPASS ON PRIVATE PROPERTY
Section 10-304 TAMPERING WITH PRIVATE OR PUBLIC PROPERTY
Section 10-305 LARCENY
Section 10-306 FRAUDULENT SCHEMES, BAD CHECKS, ETC.
Section 10-307 OBTAINING SERVICE FROM PUBLIC UTILITY WITHOUT
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CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

ARTICLE 1

IN GENERAL

Section 10-101 ATTEMPT TO COMMIT AN OFFENSE.

Any person who attempts to commit a violation of any city ordinance and does any act toward the commission thereof but fails or is prevented or interrupted from committing such violation, is guilty of an offense.

State Law Reference: Attempts, 21 O.S. Section 41 et seq.

Section 10-102 AIDING AND ABETTING.

No person shall knowingly aid, abet or assist, directly or indirectly, any other person in the commission of a violation of a city ordinance.

State Law Reference: Aiding in a misdemeanor, 21 O.S. Section 28.

Section 10-103 TITLES 21 & 37 OF THE OKLAHOMA STATUTES ADOPTED BY REFERENCE

Titles 21 & 37 of the Oklahoma Statutes is hereby adopted by reference and incorporated herein as if fully set out and the police officers may file municipal charges based on the state statutes in these titles.

ARTICLE 2

OFFENSES INVOLVING INJURY TO PERSONS

Section 10-201 ASSAULT.

A. No person shall commit an assault.

B. As used in subsection A the term "assault" shall mean any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

State Law Reference: Assault defined, 21 O.S. Section 641; punishment for assault, 21 O.S. Section 644.

Section 10-202 BATTERY.

A. No person shall commit a battery.

B. As used in subsection A the term "battery" shall mean any willful and unlawful use of force or violence upon the person of another.

State Law Reference: Battery defined, 21 O.S. Section 642; punishment for battery, 21 O.S. Section 644.

Section 10-103 FIGHTS OR QUARRELS.

No person shall wrangle, quarrel, fight or challenge another to fight within the city.

State Law Reference: Disturbing the peace by fighting, quarreling, etc. 21 O.S. Section 1362; duels and challenges, 21 O.S. Section 661 et seq.

Section 10-104 - 10-106 RESERVED.

ARTICLE 3

OFFENSES INVOLVING PROPERTY

Section 10-301 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:

"Petit larceny" shall mean the taking of personal property not exceeding Five Hundred Dollars (\$500.00) in value, accomplished by fraud or stealth, with the intent to deprive another thereof.

"Private property" shall mean any property other than public property.

"Public property" shall mean that property which is dedicated to the public use and over which the federal, state or municipal

governments or any political subdivision thereof exercises control and dominion.

State Law Reference: Larceny defined, 21 O.S. Section 1701; petit larceny defined, 21 O.S. Section 1704.

Section 10-302 TRESPASS ON PUBLIC PROPERTY.

A. No person shall trespass on public property.

B. As used in this Section:

1. "Trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession of the premises or government in violation and contrary to the provisions of any official sign posted to regulate and govern such entry or use.

2. "Official sign" shall mean any permanently fixed notice posted by the federal, state or municipal government owning or maintaining any said public property.

C. No person, who has the possession of any weapon, other than those persons exempted in this subsection, shall enter or remain on any public property, on which signs have been posted prohibiting the possession of any such weapons on said public property; provided however, the provisions of this subsection shall not apply to commissioned peace officers or duly CLEET licensed armed security personnel who are under contract with the posting entity which owns, controls, leases or operates the posted premises.

State Law Reference: Trespass, 21 O.S. Section 1835.

Note: Ordinance No. 96-3263 approved on 4-15-96.

Section 10-303 TRESPASS ON PRIVATE PROPERTY.

A. No person shall trespass on private property.

B. As used in subsection A, the term "trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful

possession. "Trespass" shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or the agent, or employee of the owner, or other person in lawful possession of the premises. "Trespass" shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer; provided that the provisions of this sentence shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this sentence apply unless hours of business operation are posted upon such premises. "Trespass" shall also be defined as the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

State Law Reference: Trespass, 21 O.S. Section 1835.

Section 10-304 TAMPERING WITH PRIVATE OR PUBLIC PROPERTY.

No person shall maliciously injure, deface or destroy any real or personal property, either public or private, which is not his own.

State Law Reference: Tampering, destroying, etc., property, 21 O.S. Section 349, 372, 1751, 1753-1755, 1757, 1758, 1759, 1762, 1765, 1767.1, 1768, 1770-1779, 1784-1787, 1789, 1831.

Section 10-305 LARCENY.

No person shall commit the offense of petit larceny.

State Law Reference: Larceny, 21 O.S. Section 1704, 1706, 1709, 1710, 1723, 1722, 1731.

Section 10-306 FRAUDULENT SCHEMES, BAD CHECKS, ETC.

A. Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person any money, property or valuable thing, of the value of Five Hundred Dollars (\$500.00), or less, by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the "confidence

game," or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of an offense.

B. As used in this Section:

1. The term "false or bogus check or checks" shall include checks or orders given for money or property or in any case where the maker receives a benefit or thing of value which are not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

2. The word "credit" shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

State Law Reference: Similar provisions, 21 O.S. Section 1541.1, 1541.4, 1541.5.

Section 10-307 OBTAINING SERVICE FROM PUBLIC UTILITY WITHOUT AUTHORIZATION.

No person shall obtain any water, gas, electricity, cable or other type of service from any public utility except by express authorization and in the manner directed by such public utility.

Section 10-308 - 10-310 RESERVED.

ARTICLE 4

OFFENSES AGAINST DECENCY AND MORALITY

DIVISION 1

GENERALLY

Section 10-401 NUDITY; INDECENT EXPOSURE OR LEWD ACTS IN PUBLIC.

No person shall appear in a state of nudity or make any indecent exposure of his genitals or perform any lewd act in any public place not designed for same.

State Law Reference: Indecent exposure, public lewdness, etc., 21 O.S. Section 1021.

Section 10-402 PROSTITUTION.

A. It shall be unlawful for any person to commit an act of prostitution.

B. No person shall knowingly or intentionally pay, or offer or agree to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person.

C. As used in subsection A the term "prostitution" shall mean any sexual intercourse or deviate sexual conduct, which is performed for money or other property.

State Law Reference: Prostitution, 21 O.S. Section 1028 et seq.

Section 10-403 GAMBLING, DEFINITION.

As used in the division the term "gambling game" shall mean any game of faro, monte, poker, roulette, craps, wheel of fortune, or any banking or percentage game, or any other gambling game of chance played with dice, cards or any other device whatsoever for property, money, checks, credit or any other representation of value.

Section 10-404 GAMBLING GAMES PROHIBITED.

No person shall deal, play or carry on, or open or cause to be opened, or to conduct, either as principal or agent, whether for hire or otherwise, any gambling game.

Section 10-405 SLOT MACHINES.

No person shall set up, operate or conduct, or permit to be set up, operated or conducted in or about his place of business whether as owner, employee or agent, any slot machine or other mechanical or electrical device for the purpose of having or allowing it to be played for money, property, checks, credits, or for any other representation of value.

State Law Reference: Similar provisions, 21 O.S. Section 941.

Section 10-406 GAMBLING ROOMS AND PARAPHERNALIA.

Any person who keeps or maintains a gaming room, gaming table, or any policy or pool tickets used for gaming, or knowingly permits a gaming room, gaming table or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him or any person having any gaming paraphernalia in his possession, shall be guilty of an offense.

State Law Reference: Gambling, generally, 21 O.S. Section 941-995.18.

Section 10-407 DISORDERLY PLACES, DEFINITIONS.

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

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute or city ordinance; or

2. The violation of any ordinance or state statute regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one per cent alcohol by volume; or

3. The performance of any sexual act declared unlawful by ordinance or state statute including, but not limited to, soliciting for the purposes of prostitution, or

4. The violation of any ordinance or state statute prohibiting gambling.

Section 10-408 MAINTAINING A DISORDERLY HOUSE.

No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

State Law Reference: Keeping a disorderly house, 21 O.S. Section 1026.

Section 10-409 LEASING PROPERTY FOR DISORDERLY HOUSE.

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

B. The occurrence of any act in any house, building, structure, tent, vehicle, mobile home, or recreational vehicle which results in the conviction of any person in the municipal court for a violation of this Article, or of Section 10-408, shall, after the lapse of thirty (30) days from such conviction, constitute notice to all owners, lessors, and other persons having control thereof that such premises are being occupied as a disorderly house. However, no such notice as contemplated by this subsection shall be effective unless written notice of such conviction shall have been delivered in person to such owner, lessee, or other person having control over such premises by a duly authorized officer of the police department.

C. Any person required to discontinue any lease or permitted use of property by subsections A and/or B herein shall not accept any rents, fees, profits or consideration of any type from the lessees or other persons or corporations occupying or in control or possession of the premises at the time the disorderly house

requiring such discontinuance of lease or permitted use occurred. Each day for which such rent, fee, profit or consideration is accepted shall constitute a separate offense.

State Law Reference: Leasing property for a disorderly house, 21 O.S. Section 1027.

Section 10-410 RESIDENTS AND VISITORS TO DISORDERLY HOUSES.

No person shall knowingly reside in, enter into, or remain in a disorderly house, provided however, that in any prosecution for violation of this Section, the city shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This Section shall not apply to physicians or officers in the discharge of their professional or official duties.

ARTICLE 5

OFFENSES AGAINST PUBLIC PEACE AND ORDER

Section 10-501 RIOTOUS CONDUCT; DISTURBING PEACE.

No person shall conduct himself in a riotous or disorderly manner, or make or cause to be made any loud, or unnecessary, or offensive noise, or wantonly disturb the quiet of the city or any lawful assembly of persons, or any church or religious meeting or any house, family or neighborhood, or any person.

State Law References: Riot generally, 21 O.S. Section 1311 et seq.; grossly disturbing the peace, 21 O.S. Section 22; disturbing the peace, 21 O.S. Section 1362.

Section 10-502 UNLAWFUL ASSEMBLY

A. Any person who collects or assembles in crowds and bodies for unlawful or mischievous purposes in any place in the city to the annoyance or inconvenience of other persons, or who shall be involved in, or incite or attempt to incite a riot, or who shall fail to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

B. No three (3) or more persons shall assemble together or act in concert to do any act with force and violence against the property of the city, the person or property of another, or against the peace, or to the terror of others or make any movement or

preparation therefor. No person shall remain present at the place of such assembly after being warned by a police officer to disperse.

State Law Reference: Riots and unlawful assembly, 21 O.S. Section 1311 et seq.

Section 10-503 OBSTRUCTING STREETS, SIDEWALKS, ETC.

Any person who collects or assembles and stands or sits in crowds or loiters about or hinders, obstructs, impedes or blocks the free and uninterrupted passage on any sidewalk, street, alley or driveway or in front of any place of business, or in any hall, stairway, office building or any other public place and who fails to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

Section 10-504 FIGHTING WORDS OR GESTURES.

Any person who utters any indecent, lewd or filthy words, or uses any threatening language toward any other person, or makes any obscene gesture to or about any other person in any public place which is likely to provoke the average person to retaliation and thereby cause a breach of the peace shall be guilty of an offense.

State Law Reference: Similar provisions, 21 O.S. Section 1362.

Section 10-505 FALSE ALARMS.

It is unlawful for any person to turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department or police department or any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless run.

Section 10-506 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the city to keep traffic off any pavement, street, curb, sidewalk or other area.

Section 10-507 ELUDING POLICE OFFICERS.

Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren or a siren only from a police officer driving a motor vehicle showing the same to be an official police vehicle, directing the operator to bring his vehicle to a stop, and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or who does willfully attempt in any other manner to elude such police officer, or who does elude such peace officer, is guilty of an offense.

Section 10-508 LOUD NOISE OR MUSIC PROHIBITED; AMPLIFIED SOUND.

It is unlawful for any person to disturb the peace and quietude of any part of the city by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, any motor vehicle, or any other device, with or without a loud speaker, in such a manner as to emit loud music, noise or words. However, this Section shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

ARTICLE 6

OFFENSES AGAINST GOVERNMENT

Section 10-601 OBSTRUCTING OR INTERFERING WITH OFFICIAL PROCESS.

No person shall oppose, obstruct or otherwise interfere with a police officer or other peace official in the discharge of his official duties.

State Law Reference: Obstructing police officers, 21 O.S. Section 540.

Section 10-602 RESISTING ARREST.

A. Resisting arrest is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

B. The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification and connotation mean:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

4. Resisting arrest is an offense.

Section 10-603 AIDING IN ESCAPE.

No person shall set at liberty or rescue or attempt by force or in any other manner to set at liberty any person who is under the legal custody and charge of an officer.

Section 10-604 ESCAPES FROM CUSTODY.

No person held in custody by any peace officer shall escape or attempt to escape from such officer or to attempt to break jail.

State Law Reference: Attempts to escape from jail, 21 O.S. Section 436.

Section 10-605 IMPERSONATING AN OFFICER OR EMPLOYEE.

No person shall impersonate any officer or employee of the city or falsely represent himself to be such an officer or employee or exercise any duties, functions and powers of any such officer or employee.

State Law Reference: Impersonation of public officer, 21 O.S. Section 263, 264, 1533.

ARTICLE 7

WEAPONS AND RELATED OFFENSES

Section 10-701 CARRYING DANGEROUS WEAPONS.

A. It shall be unlawful for any person to carry upon or about his person, or in a purse or other container belonging to the person, any dagger, Bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, blackjack, loaded can, billy, hand chain, metal knuckles or any other offensive or dangerous weapon, other than a forearm, where such weapon is concealed or unconcealed.

B. The provisions of subsection A shall not prohibit the proper use of knives for hunting, fishing or recreational purposes, nor shall subsection A be construed to prohibit any use of weapons in a manner otherwise permitted by city ordinance or state statute.

C. As used in subsection A the term "prohibited knife" shall mean any knife which is not being carried while engaged in the performance of a lawful occupation or business, when such knife is:

1. Over six (6) inches in length; or
2. Has a blade over four (4) inches in length.

D. The police department shall seize the weapon upon the arrest of, or issuance of a citation to, any person for violating subsection A. Upon conviction of such a person of a violation of subsection A such weapon shall be forfeited to the city.

State Law Reference: Carrying dangerous weapons, 21 O.S. Section 1272.

Note: Amendments made to make ordinance consistent with state law on September 15, 2003 by Ordinance No. 2003-23.

Section 10-702 RECKLESS CONDUCT.

It is unlawful for any person to engage in reckless conduct while having in his possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and

probability of death or great bodily harm to another and demonstrating a conscious disregard for the safety of another person.

Section 10-703 DISCHARGING FIREARMS; EXCEPTIONS.

A. No person shall discharge any species of firearms, in the city except when doing so in the line of duty, when lawfully doing so in defense of oneself, of another person, or of property or when otherwise authorized by law or ordinance.

B. It is unlawful to discharge a rifle, firearm, BB gun, dart gun, or pellet gun within the city limits.

Section 10-704 FIREWORKS REGULATED.

Except as otherwise provided by state law, Class "C" Common fireworks may be stored, sold and used in the City of Cherokee, Oklahoma, in compliance with the terms and provisions of this section.

A. All fireworks storage and sales areas shall be conspicuously posted with signs reading "FIREWORKS-NO SMOKING".

B. Fireworks offered for retail sale must be protected from direct contact and handling by the public at all times. Self-serve or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stocks or displays is strictly prohibited. Sales of fireworks may only be made at properly licensed retail locations on real property zoned commercial or used for public or quasi-public purposes. A sales clerk must be on duty to serve the consumer at the time of purchase.

C. Fireworks shall not be sold or displayed to the public within any building or portion thereof or any vehicle which allows entry by any persons other than employees within such building or vehicle unless the fireworks are kept where they cannot be reached or handled by those persons. An enclosed building used for sale of fireworks to the public shall have adequate exits as determined by the Fire Chief and State Fire Marshal. The use of tents or other nonrigid shelters for the sale or storage of fireworks where the public may move about under or within the confines of a shelter is prohibited.

D. The retail license holder shall be responsible for the safe operation of retail sales to the public. The retail license holder shall be at least sixteen (16) years of age.

E. No person shall offer fireworks for sale to persons before the 15th day of June or after the 6th day of July and before the 15th day of December or after the 2nd day of January in each year.

F. A permit shall be secured from the City in order to sell and/or publicly display fireworks. The applicant shall pay a fee of \$10.00 for such permit. No person shall sell or display fireworks without first obtaining a permit from the City. An application for a permit shall be sworn to and filed with the city clerk. It shall contain the following information:

1. Full name, description, birth date, social security, and address number of the applicant.

2. Location where the fireworks will be sold or displayed. If such property is not owned by the applicant, a copy of the lease agreement with the owner permitting such use.

3. The times and dates of sale of display.

4. A statement as to whether or not the applicant has been convicted of a felony, the nature of the offense and the punishment or penalty assessed therefor.

5. Verification of sales tax number issued by the Oklahoma Tax Commission.

Applications for permits for Class B Displays must be submitted in writing five (5) days prior to date of display to the City Clerk. Every display shall be under the direction of a competent, responsible operator of legal age and the person or organization making application for permit must show financial liability coverage in minimum amounts of Five Thousand Dollars (\$5,000.00) per person, Ten Thousand Dollars (\$10,000.00) personal injuries from any single accident, and Five Thousand Dollars (\$5,000.00) property damage. Before a permit is granted, the Fire Chief shall inspect and approve or reject the site of the display. No permit so granted shall be transferable. The City Manager shall have the power to adopt other reasonable rules and regulations for the granting of permits for supervised public displays of fireworks

by the City, fair associations, amusement parks and other organizations, in accordance with the City's fire code.

G. Fireworks may only be discharged on July 2, 3 and 4th from 9:00 a.m. until 10:30 p.m., and on December 31 from 9:00 a.m. to 1:00 a.m. on January 1 and then from 9:00 a.m. until 9:00 p.m. on January 1.

H. No fireworks shall be discharged by any person under the age of sixteen (16) unless such person is being directly supervised by their parent or guardian.

I. Unless specifically authorized by this section, the manufacture, sale, furnishing, storage, discharge, firing or use of fireworks within the corporate limits of the Town is hereby prohibited. Provided however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited.

J. The chief of the fire department or any police officer shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section.

K. Except as otherwise provided, for the purpose of this Section "fireworks" shall have the meaning prescribed by state law, Section 1622 of Title 68 of the Oklahoma Statutes.

State Law Reference: Bottle rockets prohibited by state law, 68 O.S. Section 1624; state fireworks licenses required, 68 O.S. Section 1621 et seq.

Cross Reference: Fire Prevention Code, Section 13-101; license and occupation taxes, Section 9-101.

ARTICLE 8

ALCOHOL, DRUGS AND RELATED SUBSTANCES

Section 10-801 RESERVED

Section 10-802 RESERVED

Section 10-803 DEFINITIONS.

As used in this article the following words and phrases shall have the meanings respectively ascribed to them in this Section:

"Administer" shall be defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Controlled dangerous substance" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Deliver" or "delivery" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Drug paraphernalia" shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of state law. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled dangerous substance can be derived;

2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances;

3. Isomerization devices used intended for use, or designed for use in increasing the potency of any species of plant which is a controlled dangerous substance;

4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances;

5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled dangerous substances;

6. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled dangerous substances;

7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use in compounding controlled dangerous substances;

9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled dangerous substances;

10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled dangerous substances;

11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled dangerous substances into the human body;

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;

- e. Roach clips meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- I. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers;

In determining whether an object is drug paraphernalia, A court or other authority should consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use;

- a. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled dangerous substance;
- b. The proximity of the object, in time and space, to a direct violation of this article or of the State Uniform Controlled Dangerous Substance Act;
- c. The proximity of the object to controlled dangerous substance;
- d. The existence of any residue of controlled dangerous substances on the object;
- e. Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know,

intended to use the object to facilitate a violation of this article or the State Uniform Controlled Dangerous Substance Act; the innocence of the owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

- f. Instructions, oral or written, provided with the object concerning its use;
- g. Descriptive materials accompanying the object which explain or depict its use;
- h. National and local advertising concerning its use;
- I. The manner in which the object is displayed for sale;
- j. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- k. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- l. The existence and scope of legitimate uses for the object in the community;
- m. Expert testimony concerning its use.

"Marijuana" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Sale" includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.

State Law Reference: Uniform Controlled Dangerous Substance Act, 63 O.S. Section 2-101 et seq.

Section 10-804 POSSESSION.

It is unlawful for any person knowingly or intentionally to possess any of the following controlled dangerous substances unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as authorized by state law:

1. Any substance listed in Sections 2-208, 2-209 or 2-210 Of Title 63 of the Oklahoma Statutes; or
2. Any marijuana; or
3. Any substance included in subsection D of Section 2-206 Of Title 63 of the Oklahoma Statutes.

State Law Reference: Similar provisions, 63 O.S. Section 2-402.

Section 10-805 IMPLEMENTS FOR CONTROLLED DANGEROUS SUBSTANCES.

A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

B. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to

promote the sale of objects designed or intended for use as drug paraphernalia.

Section 10-806 SMELLING, INHALING, ETC., OF GLUE, ETC.

A. It shall be unlawful for any person deliberately to smell, inhale, breathe, drink, or otherwise consume any compound, liquid, chemical, narcotic, drug or any other substance containing any ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbons, such as gasoline, glue, fingernail polish, adhesive cement, mucilage, dope or any other substance or combination.

B. The provisions of subsection A shall not pertain to any person who inhales, breathes, drinks or otherwise consumes such material or substance pursuant to the direction or prescription of any licensed doctor, physician, surgeon, dentist or podiatrist; or

State Law Reference: Similar provisions, 63 O.S. Section 465.20.

ARTICLE 9. CURFEW FOR MINORS

Section 10-901. CURFEW FOR MINORS

A. Definition. For the purpose of this Section, a minor shall mean any person under the age of eighteen (18) years but shall not include any person who is legally emancipated or certified as an adult.

B. Curfew Generally. No minor shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, to include, but not be limited to, driving, riding or parking any motorized or non-motorized vehicle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 10:00 P.M. and 6:00 A.M. of the following day, of every night and morning in the week, except Friday and Saturday nights and the following morning, and between the hours of 11:30 A.M. Friday and Saturday nights and 6:00 A.M. of the following morning.

C. Exceptions. The following shall constitute valid exceptions to the operation of Subsection B:

1. At any time, if the minor is accompanied by his or her parent, legal guardian or adult person having care and custody of the minor, or other person who has reached the age of 21 years old and who is specifically approved by the minor's parent, legal guardian, or adult person having care and custody of the minor, which person shall be responsible for the acts of the minor;

2. Until the hour of 12:00 A.M. on any day of the week, if the minor is on an errand as directed by his or her parent, legal guardian or adult person having care and custody of the minor;

3. If the minor is legally employed, for the period from one-half hour before to one-half hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come under this exception, the minor must be carrying a written statement from the employer attesting to the place and hours of employment;

4. Until the hour of 12:00 A.M. on any day of the week, if the minor is on the property of or the sidewalk directly adjacent to the building in which he or she resides or the buildings immediately adjacent thereto if the owner of the adjacent building does not object;

5. If the minor is coming directly home from a school activity or an activity of a religious or other voluntary association, or a place of public entertainment such as a movie, play, or sporting event. This exception will apply for one-half hour after the completion of such event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will end, the sponsoring organization must register the event with the police department at least 24 hours in advance, informing it of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization;

6. If the minor is exercising first amendment rights protected by the Constitution, such as the free exercise of religion, speech or assembly, provided the minor first has given notice to the chief of police by delivering a written communication signed by the minor and countersigned by a parent of the minor

which specifies when, where, in what manner, and for what first amendment purpose the minor will be on the streets at night during the curfew period.

D. Violations.

1. A police officer who has probable cause to believe that a minor is in violation of this Section for the first time shall issue the minor a written warning with a copy of the warning mailed to the minor's parents, legal guardian or other adult person having the care and custody of the minor at the time the violation of this Section occurs or as otherwise provided by this Section. A police officer who has probable cause to believe that a minor is in violation of this Section for a second or subsequent time shall issue the minor a written complaint, if the minor signs the written promise to appear, with a copy of the complaint mailed to the minor's parents, legal guardian or other adult person having the care and custody of the minor at the time the violation of this Section occurs or as otherwise provided by this Section. In the event that the minor fails, refuses or neglects to sign the promise to appear or fails to go home after being instructed to by the police officer, then the police officer may take the minor to the police station. At that time, the minor's parent, legal guardian or adult person having the care and custody of the minor+ shall be immediately contacted. In the event that such parent, legal guardian or adult person having the care and custody of the minor, the minor may be referred to a state approved agency pursuant to state law, released to a responsible adult or relatives, or such other action as the police officer deems necessary.

2. The police shall send the minor's parent, legal guardian or adult person having the care and custody of the minor, written notice of the violation, or by serving such notice personally on such person, warning them that two or more violations of this ordinance by the minor may result in the filing of a charge against such parent, legal guardian or adult person having the care and custody of the minor for a violation of subsection D3.

3. No parent, legal guardian or other adult person having the care and custody of a minor shall permit such minor to violate the provisions of Subsection B. In any prosecution for the violation of the provisions of this Section, proof that the minor violated Subsection B on two (2) or more occasions, together with proof that the parent, legal guardian or adult person having the care and custody of such minor was given written notice of two(2) or more

previous violations of Subsection B as provided by Subsection D2, shall constitute in evidence a prima facie presumption that the parent, legal guardian or adult person having the care and custody of such minor permitted such minor to violate Subsection B of this Section.

4. Any parent, legal guardian or adult person having the care and custody of a minor who is contacted by the police pursuant to Subsection D1 hereinabove for a violation by such minor of Subsection B and who refuses to take custody of such minor, shall be guilty of an offense.

ARTICLE 10

PREVENTION OF YOUTH ACCESS TO TOBACCO AND VAPOR PRODUCTS AND OTHER TOBACCO RULES

SECTION 10-1001 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:

A. Cigarette: means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and costs of or contains:

1. any roll of tobacco wrapped in paper or in any substance not containing tobacco.

2. tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term "cigarette" includes "roll-your-own" (i.e. any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette".

B. Person: means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

C. Proof of age: means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

D. Sample: means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product;

E. Sampling: means the distribution of samples to members of the public in a public place;

F. Tobacco product: means any product that contains tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration.

G. Transaction scan: means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and

H. Transaction scan device: means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.

I. Vapor product: shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

SECTION 10-1002 FURNISHING OR SALE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS TO MINORS

A. It is unlawful for any person to sell, give or furnish in any manner any tobacco, tobacco product or vapor product to another

person who is under eighteen (18) years of age, or to purchase in any manner tobacco, a tobacco products or vapor product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco, tobacco products or vapor products when required in performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco, tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be less than eighteen (18) years of age. If an individual engaged in the sale or distribution of tobacco, tobacco products or vapor products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.

C. Any violation of subsection A or B of this section is an offense against the City of Cherokee; upon conviction of any such offense, the violator shall be punished as follows:

1. Not more than One Hundred Dollars (\$100.00) for the first offense;
2. Not more than Two Hundred Dollars (\$200.00) for the second offense within a two-year period following the first offense;
3. Not more than Three Hundred Dollars (\$300.00) for the third or subsequent offense within a two-year period following the first offense.

D. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

1. The individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older; or

2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

SECTION 10-1003 RECEIPT OF TOBACCO PRODUCTS AND VAPOR PRODUCTS BY MINORS.

A. It is unlawful for any person who is under eighteen (18) years of age to purchase, receive, or have in his or her possession a tobacco product, or vapor product, or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product or vapor products. It shall not be unlawful for an employee under age eighteen (18) years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.

B. When a person is convicted or enters a plea and receives a continued sentence for a violation of subsection A of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$100.00) for a first offense; and
2. Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

SECTION 10-1004 DISTRIBUTION OF TOBACCO PRODUCT AND VAPOR PRODUCT SAMPLES.

A. It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under eighteen (18) years of age.

B. No person shall distribute tobacco, tobacco product or vapor product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

C. When a person is convicted or enters a plea and receives a continued sentence for a violation of subsections A or B of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$100.00) for the first offense;
2. Two Hundred Dollars (\$200.00) for the second offense; and
3. Three Hundred Dollars (\$300.00) for the third or subsequent offense.

SECTION 10-1005 PUBLIC ACCESS TO DISPLAYED TOBACCO PRODUCTS AND VAPOR PRODUCTS.

A. It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco product or vapor products without assistance from the person displaying the tobacco product or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age.

B. When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars (\$200.00) for each offense.

SECTION 10-1006 REPORT OF VIOLATIONS AND COMPLIANCE CHECKS.

A. Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection B of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission. Convictions shall be reported by the [Court Administrator/Court

Clerk] or his designee and compliance checks shall be reported by the Chief of Police or his designee.

B. Persons under eighteen (18) years of age may be enlisted by the Police Department to assist in enforcement of this Article pursuant to the rules of the ABLE Commission.

SECTION 10-1007 TOBACCO-FREE AND MARIJUANA FREE IN CITY-OWNED AND OPERATED BUILDINGS AND REAL PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF CHEROKEE.

Sections 10-1007 through Section 10-1007D shall be hereafter known as the Tobacco-Free and Marijuana Free in City-Owned and Operated Buildings and Real Properties located within the corporate limits of the City of Cherokee Ordinance. Violations shall be punishable as provided by Section 1-108 of this code.

Section 10-1007A DEFINITIONS

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

A. "Indoor area" shall mean any indoor city-owned and operated property located within the Cherokee corporate limits. An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed;

B. "Outdoor area" shall mean any covered area, partially covered area or area open to the sky that is on a property owned and operated by the City of Cherokee and located within the Cherokee corporate limits;

C. "Recreational area" shall mean any area that is owned and operated by the City of Cherokee located within the Cherokee corporate limits and open to the general public for recreational purposes, regardless of any fee or age requirement, and includes parks, picnic areas, playgrounds, sports fields, walking paths,

gardens, hiking trails, bike paths, riding trails, swimming pools and skateboard parks;

D. "Tobacco product" shall mean any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products, with or without nicotine.

E. "Tobacco-free" shall mean to prohibit the use of any tobacco product by anyone, at any time, at any prohibited location as further defined by this Ordinance.

F. "Vapor product" shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food, Drug and Cosmetic Act.

G. "Marijuana products" shall be defined as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

H. "Marijuana-free" shall mean to prohibit the use of marijuana products by anyone, at any time, at any prohibited location as further defined by Sections 10-1007 through 10-1007D.

Section 10-1007B PROHIBITION OF TOBACCO, MARIJUANA AND VAPOR PRODUCTS ON CITY-OWNED AND OPERATED PROPERTIES WITHIN THE CORPORATE LIMITS.

A. The possession of lighted tobacco or lighted marijuana products in any form is a public nuisance and dangerous to public

health and is hereby prohibited:

1. When such possession is in any indoor or outdoor area owned or operated by the City of Cherokee located within the Cherokee City Limits;
2. When such possession is in any indoor place used by or open to the public or any indoor workplace, unless otherwise exempted or excepted by state law; and
3. Within fifteen (25) feet of any exterior public doorway or any air intake of a restaurant.

B. All buildings and other properties, including indoor and outdoor areas, owned and operated by the City of Cherokee located within the Cherokee corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products and entirely marijuana-free to include all forms of marijuana products including vapor products using marijuana. No tobacco smoking or tobacco vaping or marijuana smoking or vaping shall be allowed within twenty-five feet (25') of the entrance or exit of any building specified in this subsection.

C. All indoor and outdoor recreational areas owned and operated by the City of Cherokee located within the Cherokee corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products and entirely marijuana-free to include all forms of marijuana products including vapor products using marijuana.

D. Smoking Tobacco Products or lighted marijuana products is prohibited in all places in which Smoking Tobacco Products or lighted marijuana products is prohibited by Oklahoma state law.

E. Smoking or vaping Tobacco Products or lighted or vaping marijuana products is prohibited at all events on property operated by the City, including the streets and sidewalks, during festivals and events, which festivals and events are permitted, sanctioned or conducted by the City.

F. Smoking or vaping tobacco or smoking or vaping marijuana is prohibited in all vehicles owned or operated by the City.

G. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this section.

Section 10-1007C POSTING.

A. The City of Cherokee shall post a sign or decal, at least four inches by two inches in size, at each entrance of city owned and/or operated property or building located within the Cherokee corporate limits indicating the property and/or building is tobacco-free and marijuana-free.

B. The posting of signs or decals is the responsibility of the City Manager and/or supervisor of the city owned and operated property located within the Cherokee corporate limits.

C. Notwithstanding the provision of this section, the presence or absence of signs shall not be a defense to the charge of a violation of Section 10-1007B.

Section 10-1007D ENFORCEMENT.

The City of Cherokee shall, at a minimum, do the following in order to prevent tobacco and marijuana products and vapor product use in city owned and operated property located within the Cherokee corporate limits:

Post signs at entrances to city owned and operated properties located within the Cherokee corporate limits which state that tobacco use and/or marijuana product use and/or vapor product use are prohibited; and

Ask tobacco users to refrain from using any form of tobacco products, including vapor products upon observation of anyone violating the provisions of this Ordinance. In addition, ask marijuana product users to refrain from using any form of marijuana products, including marijuana upon observation of anyone violating the provisions of this Ordinance.

ARTICLE 11

TRUANCY

Section 10-1101 TRUANCY

A. Parental Responsibility. For those public, private and other schools wherein attendance is mandated by the State of Oklahoma, it shall be unlawful for a parent or legal guardian of a minor who is over the age of six (6) years and under the age of eighteen (18) years to neglect or refuse to cause or compel the

minor to attend and comply with the rules of such public, private or other school of the parent or legal guardian's choosing in which the minor is enrolled.

B. Refusal of Minor to Attend School: For those public, private and other schools wherein attendance is mandated by the State of Oklahoma, it is unlawful for any minor, who is over the age of six (6) and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of such public, private or other school or receive an education by other means for the full term the schools of the district in which the minor attends are in session.

Section 10-1102 EXCEPTIONS

The following shall constitute valid exceptions to the operation of Section 11-1101 of this Article:

A. Mental or Physical Disability. If any such minor is prevented from attending school by reason of mental or physical disability as determined by the board of education of the district, upon a certificate of the school physician or public health physician; or if no physician is available, a duly licensed and practicing physician.

B. Emergency Situation. If any such minor is excused from attendance at school, due to an emergency, by the principal of the school in which the minor is enrolled, at the request of the parent or legal guardian of the minor.

C. Excused by School and Parent: If any such minor is excused attending school by:

1. The administrator of the school or district where the minor attends school; and

2. The parent of the minor. Providing, further, that no minor shall be excused from attending school by such joint agreement between a school administrator and the parent or legal guardian of the minor unless and until it has been determined that such action is in the best interest of the minor and/or community, and that said minor shall, therefore, be under the supervision of the parent or legal guardian until the minor has reached the age of eighteen (18) years.

D. Observing Religious Holy Days. If any such minor is

observing religious holy days, if, prior to the absence, the parent or legal guardian of the minor submits a written request for the absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

Section 10-1103 VIOLATIONS

A. Separate Offense Each Day. Each separate day of violation shall constitute a separate offense whether against the parent or legal guardian of a minor for violation of Section 11- 1101A or the minor for a violation of Section 11-1101B of this Article.

B. Penalty. A violation of this Article shall be subject to a fine of not to exceed \$250.00 plus costs and state assessments.

ARTICLE 12

NOISE

Section 10-1201 DECLARATION OF POLICY; PURPOSE

Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated. The people have a right to, and should be ensured of, an environment free from excessive sound. it is the policy of the City of Cherokee, Oklahoma ("City"), to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life. It is hereby declared that the making, creation, or maintenance of excessive and unreasonable noises within the City affects, and is a menace to, public health, comfort, convenience, safety, welfare, and the prosperity of the people of the City.

Section 10-1202 DEFINITIONS

The following words and terms, when used in this ordinance will have the following meanings, unless the context clearly indicates otherwise Terms not defined in this Article have the same meaning as their ordinary use indicates.

"A" level means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(A).

Apparatus means any mechanism which prevents, controls, detects, measures, or records the production of sound.

"C" level means the total sound level of all noise as measured with a sound level meter using the "C" weighting network. The unit of measurement is the dB©).

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Decibel is a unit of measurement for sound pressure level at a specified location.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways.

Dwelling means any building occupied in whole or in part as the temporary or permanent residence of one or more natural persons.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency signal device means any gong, whistle, siren, or any air horn, or any similar device the use of which by an authorized emergency vehicle is permitted.

Emergency work means any work or action necessary to deliver essential public services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Fast response speed corresponds to a time constant of 0.125s and is intended to approximate the time constant of the human hearing system.

Impulsive noise or impulsive sound is a sound having a duration of less than one second with an abrupt onset and rapid decay.

LAeq: The constant level that over a given period transmits to the receiver the same amount of acoustic energy as the actual time-elapsed sound. (This unit can also be written as dBA Leq).

Motor vehicle means any self-propelled (propelled other than by human or animal power) vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

Multi-dwelling unit building means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

Multi-use property means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial, or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

2. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

Noise means an erratic, intermittent, or statistically random oscillation.

Owner means and includes the owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.

Person means any individual, partnership, company, corporation, association, firm, organization, governmental agency,

administration or department, or any other group of individuals, or any officer or employee thereof.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

Private right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley, or easement that is owned, leased, or controlled by a non-governmental entity.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley, or easement that is owned, leased, or controlled by a governmental entity.

Public space means any real property structures thereon that are owned, leased, controlled by a governmental entity.

Real property line means either (1) the imaginary line including its vertical extension that separates one parcel of real property from another; (2) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (3) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

Receiving property means that property at which sound levels are measured.

Slow response speed corresponds to a time constant of 1 second and is intended to make it easier to obtain an approximate average value of fluctuating levels from simple meter readings.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g. elastic, viscous), or the superposition of such propagated oscillation which evokes an auditory sensation.

Sound level meter means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute specifications for sound level meters S1.4.1971, as amended.

Sound pressure level (decibels) means a sound that is twenty times the logarithm to the base ten of the ratio of the pressure of the sound to the reference pressure, 2×10 to the 4th power microbars.

Sound reproduction device means a device intended primarily for the production or reproduction of sound, including but not limited to any musical instrument, radio receiver, television receiver, tape recorder, phonograph, or sound amplifying system.

Sound signal means any sound produced by a sound signal device designed to transmit information.

Sound source means any activity or device as herein defined.

Sound source or sound source property means an instrument, machine, apparatus, person, or property which is producing sound or from which sound is emanating

Total sound or Residual sound means, at a specified time, the all-encompassing sound, being usually a composite of sound from many sources at many directions, near and far, remaining at a given position in a given situation when all uniquely identifiable discrete sound sources are eliminated, rendered insignificant, or otherwise not included. Residual sound may be approximated by the percentile sound level exceeded during 90-95 percent of the measurement period.

Weekday means any day that is not a federal holiday and beginning on Monday at 7:00 am. and ending on the following Friday at 6:00 p.m.

Weekend means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

Section 10-1203 APPLICABILITY AND SCOPE

This Article applies to the control of all sound originating within the jurisdictional limits of the City of Cherokee, Oklahoma.

A. This Article applies to sound from the following sound source property categories:

1. Industrial facilities;
2. Commercial facilities;
3. Public service facilities;
4. Community service facilities;
5. Residential properties;
6. Multi-use properties;
7. Public and private right-of-ways;
8. Public spaces; and
9. Multi-dwelling unit buildings.

B. This Article applies to sound received at the following receiving property categories:

1. Commercial facilities;
2. Public service facilities;
3. Community service facilities;
4. Residential properties;
5. Multi-use properties; and
6. Multi-dwelling unit buildings.

Section 10-1204 SOUND LEVEL MEASUREMENT CRITERIA

For the purpose of enforcement of the provisions of this Article, noise levels will be measured on the A-weighted scale with a sound level meter satisfying at least the applicable requirement for Type 2 sound level meters as defined in American National Standard S1.4-1971 or the most recent revisions thereof. Prior to measurement, the meter will be set for "slow response speed," except that for rapidly varying sound levels, "fast response speed" may be used. Prior to measurement, the meter will be verified and calibrated according to the manufacturer's specifications.

Section 10-1205 POLICE OR CODE ENFORCEMENT OFFICER SHALL ENFORCE

A. The provisions of this Article will be enforced by police or code enforcement officers (hereinafter referred to as "noise

enforcement officers).

B. Sound measurements made by a noise control officer will conform to the procedures set forth at Section 10-1206.

C. The City Manager and noise control officers shall:

1. Coordinate the noise control activities of all departments in the City;
2. Cooperate with all other public bodies and agencies to the extent practicable;
3. Review the actions of the City and advise of the effect, if any, of such actions on noise control;
4. Review public and private projects for compliance with this Article; and
5. Investigate and pursue possible violations of this Article for sound levels which equal or exceed the sound levels set forth in Tables I and II of this Article, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with Section 10-1206.

Section 10-1206 MAXIMUM PERMISSIBLE SOUND LEVELS

A. No person may cause, allow, or permit the production of any sound on any sound source property listed in Section 10-1203 above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II of this Article when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in subsections B and C below.

B. When measuring "total sound" or "residual sound" within a multi-use property, or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows must be closed and the measurements must be taken in the center of the room most affected by the noise. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements must not be taken in areas which receive only casual use such as hallways, closets, and bathrooms.

C. Indoor measurements may only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling unit building. Indoor measurements must be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling unit building. The allowable sound level standards for indoors are as shown in Tables I and II of this Article.

D. Between 7:00 a.m. and 10:00 p.m., impulsive sound may not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour may not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour will be measured as impulsive sound and will meet the requirements as shown in Table I and II of this Article.

Section 10-1207 RESTRICTED USES AND ACTIVITIES

A. The non-commercial or non-industrial use of power tools and landscaping and yard maintenance equipment may not occur between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I and II. At all other times, the limits set forth in Tables I and II do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

B. The commercial or industrial use of power tools and landscaping and yard maintenance equipment, excluding emergency work, may not occur on a residential property or within 250 feet of a residential property line, between the hours of 6:00 p.m. and 8:00 a.m. the following day on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. the following day on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II. In addition, the commercial or industrial use of power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property will meet the limits set forth in Tables I and II of this Article between the hours of 7:00 p.m. and 8:00 a.m. the following day. At all other times, the limits set forth in Tables I and II do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

C. Construction and demolition activity, excluding emergency work, may not be performed between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. the following day on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities.

D. An exterior burglar alarm of a building or motor vehicle must be operated so that, upon activation, it terminates its operation within five (5) minutes for continuous airborne sound or within fifteen (15) minutes for impulsive sound.

E. No person may operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table III of this Article when measured at 25 feet or more, except that vehicles are allowed to exceed the noise limits contained herein when performing acceleration maneuvers for safety purposes. In addition, no person may operate or cause or allow to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound-dissipation device in good working order and in constant operation. No person may remove or render inoperative or cause or allow to be removed or rendered inoperative other than for purposes of maintenance, repair, or replacement, any muffler or sound-dissipation device on a motor vehicle or motorcycle. No person may sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as otherwise specifically required by federal or state law or title. No person may sound any horn or other auditory signaling device that produces a sound level in excess of 90 dB(A) at 100 feet.

F. Personal or commercial vehicular music amplification or reproduction equipment may not be operated in such a manner that it is plainly audible at a residential property line between the hours of 7:00 p.m. and 8:00 a.m. the following day.

G. Personal vehicular music amplification equipment may not be operated in such a manner as to be plainly audible at a distance of 25 feet in any direction from the operator between the hours of 8:00 a.m. and 7:00 p.m.

H. Enforcement. Any authorized police officer may issue a citation for any violation under this Article.

I. Self-contained, portable, hand-held music or sound amplification or reproduction equipment may not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 25 feet in any direction from the operator between the hours of 8:00 a.m. and 7:00 p.m. Between the hours of 7:00 p.m. and 8:00 a.m. the following day, sound from such equipment may not be plainly audible by any person other than the operator.

J. Sound levels exceeding the limits set forth in Table I and Table II are prohibited between residential units within the same multi-dwelling unit building. Measurements will be taken indoors as pursuant Section 10-1206.

Section 10-1208 RESERVED

Section 10-1209 COMMERCIAL MUSIC

No person may make or cause or permit to be made or caused any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound of such music, as measured inside any receiving property unit is in excess of either;

A. 45 dB(A) as measured with a sound level meter; or

B. 45 dB in any one-third octave band having a center frequency between 63 hertz and 500 (ANSI bands numbers 18 through 27, inclusive), in accordance with American National Standards standard S1.6-1984.

C. All Tables referred to by this article are on file in the City Clerk's Office attached to the original ordinance and are incorporated herein by reference as if fully set out.

CHAPTER 11: LIBRARY, CEMETERIES, AND PARKS

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CHAPTER 11: LIBRARY, CEMETERIES, AND PARKS

ARTICLE 1

LIBRARIES

Section 11-101 DEFINITIONS.

As used in this chapter, the term "library" means the public library created herein, the term "board" means the library board members created herein and the term "board member" means a member of such board.

State Law References: Library boards, powers, 11 O.S. Section 31-101 et seq.

Section 11-102 CREATED.

There is hereby created a public library for the use and benefit of the citizens of the city.

Section 11-103 LIBRARY BOARD CREATED; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS; QUARTERLY MEETINGS; ANNUAL FILING.

A. There is hereby created a board of directors for the government and control of the library, to consist of all five (5) members of the City Council of the City.

B. The directors shall hold office and shall serve until their successors are elected or appointed and otherwise qualified, and such latter persons, shall without any further act or conveyance become fully vested with all the estate, properties, rights, duties, and obligations of their predecessors hereunder, with like effect as if originally named as a Director hereunder.

C. The board of directors shall conduct regular meetings to discuss library business at least quarterly during each calendar year and otherwise meet in special meetings as deemed appropriate to execute their responsibilities hereunder properly and faithfully.

D. At least annually, the board of directors of the library, in conjunction with the head librarian, shall file a list of directors, terms of office and meeting times with the Oklahoma Department of Libraries.

Section 11-104 BOARD MEMBERS NOT COMPENSATED.

The board members shall serve without compensation.

Section 11-105 RESERVED.

Section 11-106 RESERVED.

Section 11-107 ELECTION OF OFFICERS.

The board members shall, immediately after appointment, meet and organize by the election of one of their number as president and by the election of such other officers as they may deem necessary.

Section 11-108 GENERAL POWERS AND DUTIES.

The board shall make recommendations concerning the library building, including suggesting necessary repairs and maintenance, improvements, and the care and custody of the grounds. The board shall recommend policies concerning library operations and use after review and discussion. The board shall annually review their policies to determine if library is adequately serving the entire community. The board will advise the City Council of new or revised policies and all policies shall be subject to the review and approval of the City Council. The librarian/director, with the assistance of the library board shall prepare a budget and submit the same to the City Manager; provided however, the entire library board shall discuss and recommend approval of the budget to the City Council for final determination. The librarian shall submit bills for payment to the City Manager for approval by the city council. The library board will be advised as to the expenditures each month. The library board shall submit an annual financial and statistical report to the city and city council. Subject to the review and approval of the governing body, the library board shall set the policies of the library, accept or decline gifts, and review the expenditure of funds received from appropriations, gifts and grants.

Section 11-109 AUTHORITY TO APPOINT, LIBRARIAN ASSISTANTS.

The board shall have the power to recommend the appointment and compensation of a head librarian/director and necessary assistants.

Recommendations considering appointment and compensation of the head librarian/director and necessary assistants shall be transmitted to the City Manager who shall appoint, dismiss, direct and control the employees of the library.

Section 11-110 BYLAWS, RULES AND REGULATIONS.

A. The board shall make and adopt such bylaws, rules and regulations for its own guidance and for the government of the library, as may be expedient, not inconsistent with this article. The bylaws, rules and regulations shall be approved by the City Council, including any amendment thereto.

B. The library established under this article shall always be subject to such reasonable rules and regulations as the board may adopt, in order to render the use of such library, of the greatest benefit to the greatest number, and the board may exclude from the use of the library, any and all persons who shall willfully violate such rules.

C. Any person who shall willfully violate any rules or regulations regularly adopted by the board and City Council, for the government, care and use of the library, shall be deemed guilty of an offense and be punished in accordance with the general penalty pursuant to Section 1-108.

Section 11-111 DAMAGING, DEFACING OR FAILING TO RETURN BOOKS, MATERIALS OR OTHER PROPERTY.

Any person who shall destroy or deface any book, periodical, materials or other property of the library, or who shall fail to return any book, periodical, materials or other property at such time as the same is due to be returned, shall be guilty of a misdemeanor and be punished in accordance with the general penalty pursuant to Section 1-108. Further, such person may have their permission to use the library suspended or revoked, as appropriate, and shall be further required to pay any fine or fee set by board action.

Section 11-112 USE, TRANSFER OF LIBRARY.

A. Any library established shall be used as such, and for such other public purposes as the City Council may deem proper, and shall always be subject to such reasonable rules and regulations as the City Council may adopt, in order to render the use of the library of the greatest benefit to the greatest number.

B. Any library already existing or hereafter established may be transferred by the society, association or individual owning the same,

to the city on such terms not inconsistent with the object of this article as may be mutually agreed upon.

Section 11-113 ACCEPTANCE OF DONATIONS.

A. Any person desiring to make donations of money, personal property or real estate for the benefit of the library or for the establishment, maintenance or endowment of public lectures in connection with the library, upon any subject designated by the donor in the field of literature, science and the arts (except that lectures in the interest of any political party, politics or sectarian religion are expressly prohibited), shall have the right to vest the title of the money, personal property or real estate so donated in the city, to be held and controlled by the city, when accepted, according to the terms of the deed, devise or bequest of such property. As to such property, the city shall be held and considered to be special trustees.

B. The city shall have power to accept, or in its discretion decline, donations tendered as provided in this Section.

Section 11-114 ANNUAL REPORT.

The library board shall make, on or before the thirty-first (31st) day of July in each year, an annual report to the municipal governing body stating the condition of its trust on the thirtieth day of June of that year; the various sums of money received from the library fund and other sources and the amount of money expended and for what purposes; the budget for the library for the next fiscal year; statistics on the general character and number of books and periodicals which are on hand, are lost or missing, have been added by purchase, gift or otherwise during the year; the number of persons attending the library; the number of books loaned out; and such other statistics, information and suggestions as the board may deem of general interest. The report shall include an accounting for monies received and expended and such other statistics about library use, collections and staff which may be deemed necessary to account for their trust.

Section 11-115 ANNUAL FUNDING

The City Council shall annually appropriate to the library board from funds available to the City such moneys as deemed necessary to operate and maintain the Cherokee Public Library for the education and cultural enrichment of the citizens of the City of Cherokee. Alfalfa County may also annually appropriate to the library from funds available to the County such moneys as deemed necessary to operate and maintain the Cherokee Public Library for the education and cultural enrichment of the residents of Alfalfa County, Oklahoma.

ARTICLE 2

CEMETERY

Section 11-201 ESTABLISHMENT OF CHEROKEE MUNICIPAL CEMETERY

A. There is hereby created and established a municipal cemetery of the City of Cherokee, Oklahoma, to be known as the Cherokee Municipal Cemetery, which said cemetery shall be owned by the City of Cherokee, Oklahoma, as hereinafter set forth.

Section 11-202 BOARD OF TRUSTEES OF THE CHEROKEE MUNICIPAL CEMETERY

There is hereby created a Board of Trustees of said Cherokee Municipal Cemetery consisting of five (5) members of the City Council. The trustees shall hold office and shall serve until their successors are elected and appointed and otherwise qualified, and such latter persons, shall without any further act or conveyance, become fully vested with all the estate, properties, rights, duties, and obligations of their predecessors hereunder, with like effect as if originally named as a trustee hereunder.

Section 11-203 DUTIES OF BOARD

Said Board of Trustees shall have charge of and control of the said Cherokee Municipal Cemetery and shall be authorized to make rules and regulations governing the management, improvement and establishment of said cemetery, and shall be authorized to fix the price for which lots shall be sold or for which any interment shall be made, and said Board of Trustees shall appoint all officers necessary for tire control and management of said cemetery and fix their control and whose duties shall be to care for and protect the grounds and improvements thereon, enforce the rules and regulations of said board, repairs and construction of improvements and the maintenance of all permanent improvements and establishments of any kind tending to beautify such cemetery or preserve it permanently as a cemetery.

Section 11-204 RESERVED

Section 11-205 CREATION OF CEMETERY CARE FUND

There is hereby created a fund to be known as "The Cemetery Care Fund" which will receive an amount equal to fifteen percent (15%) of all moneys received by the City of Cherokee from the sale of lots and interments. In addition, at the time of passage, this fund shall also receive all moneys presently in the Cherokee Municipal Cemetery "Perpetual Care Fund". The fund shall be expended for purchasing lands for cemeteries and for making capital improvements for cemeteries.

Section 11-206 USE OF REMAINING MONIES

The remaining moneys received by the City of Cherokee from the sale of lots and interments shall be invested by the City Commissioners in the manner provided by law for investment of municipal funds. The

interest only from the investment of such moneys shall be used in improving, caring for, and embellishing the lots, walks, drives, parks, and other necessary improvements to any Cherokee Municipal Cemetery.

Section 11-207 TRANSFER OF LOTS

All contracts for the transfer of lots shall be signed and conveyed by certificate signed by the Mayor and countersigned by the city clerk, under the seal of the city, upon the payment to the city clerk of the price of the lot as entered upon the list filed in the city clerk's office. The certificate shall show the price for which the lots are sold and specify that the person to whom it is issued is the owner of the lot or lots described therein by number, as laid down in the plat, for purpose of interment. The certificate shall vest in the purchaser and his heirs a right to the lot or lots, for the sole purpose of interment, under the regulations of the city, or as such regulations may be hereinafter amended. The city clerk shall keep a complete record of all sales and burials in books provided by the city. All abandoned lots or spaces of lots shall be so declared by resolution of the City Commission and such abandoned lots or spaces of lots shall thereafter revert to the city. All monies received by the city from the sale of lots or from interments or from any other source shall be paid daily to the city treasurer, who shall deposit same in the municipal treasury. Expenses incurred for the upkeep, repair, and adornment of the cemetery may be paid by the treasurer upon proper warrants.

Section 11-208 TRESPASSING AND OTHER OFFENSES

That the trespassing upon the grounds of said cemetery or other violation of desecration thereof, or willful violation of any of the rules and regulations made by the said Board of Trustees shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00) and costs, for each and every such violation. It is an offense for any person to violate any posted or published rule or regulation relating to the government or preservation of the city cemetery which has been adopted by the City Commission. The commission of any act of trespass, malicious mischief, or other thing which is prohibited by ordinance within the city limits shall be an offense when committed in any cemetery owned or governed by the city. Any person who commits any such offense shall, upon conviction, be punished as provided in Section 1-108 of this code.

Section 11-209 RULES

The City Commission shall pass all rules and regulations protecting and governing the municipal cemetery, the ownership of lots therein, and visitors therein and the violation of any of the rules shall be an offense. All such rules shall be entered in a book to be kept for that purpose and shall be posted in a conspicuous place in the

cemetery.

Section 11-210 POLICE TO LEAD FUNERAL PROCESSIONS.

The police department of the city may take responsibility for leading all funeral processions going to Cemetery and within the Cemetery to the cemetery lot location.

Section 11-211 PRICE SCHEDULE.

The price schedule to be utilized in all transactions by the city at the Cemetery shall be as set by the Mayor and the City Commission in the city's fee schedule. A copy of the current schedule is on file in the city clerk's office.

ARTICLE 3

PARKS

Section 11-301 RESERVED

Section 11-302 RESERVED

Section 11-303 USE OF AMPLIFYING EQUIPMENT OR LOUD NOISES

A. No person, other than law enforcement officers or authorized governmental agencies, shall install, use or operate any amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or assemblage of persons in any public park of the city without having first obtained a permit therefor from the City Manager.

B. No person shall use any amplifying equipment or make any excessively loud noises in such a manner as to disturb other persons in the park or on adjacent property.

C. The application for such a permit shall contain the name and address of the applicant, kind and type of equipment proposed to be used, the manner in which it will be operated and the purpose or purposes for the operation of the same, and such other information as shall be required by the city clerk.

D. As used in this Section the term "amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. It shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, or warning devices on authorized emergency vehicles or horns or other warning devices used only for traffic safety purposes.

Section 11-304 NO GLASS CONTAINERS IN PARKS

No person shall be permitted to carry into or possess any glass container within any City park.

Section 11-305 NO COMMERCIAL SOLICITATION IN CITY PARKS

No person shall solicit, peddle, or engage in the business of itinerant merchant/transient street vendor, coupon book seller, or conduct any other commercial business enterprise, excepting persons, firms or entities making sales or taking order for or on behalf of the public schools or educational, religious or charitable institutions, in any city park.

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CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

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CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

ARTICLE 1

BOARDS AND COMMISSIONS

DIVISION 1

PLANNING COMMISSION

Section 12-101 PLANNING COMMISSION CREATED

There is hereby created a planning commission of the City, which shall consist of the five (5) citizens and residents who are the persons presently constituting the Mayor and members of the governing board of the City of Cherokee, Oklahoma, and the persons who shall be their successors as Mayor, and members of the governing board of the City of Cherokee, Oklahoma, and each such successor in office shall, upon qualifying and taking the Oath of Office, but without any further act, deed or conveyance, automatically become a member of the Planning Commission.

State Law Reference: Planning commissions may be established, duties and powers, 11 O.S. Section 45-101 et seq.

Section 12-102 RESERVED

Section 12-103 EX OFFICIO MEMBERS

The city engineer shall be ex officio member of the city planning commission but shall receive no compensation other than compensation as may be permitted by contract.

Section 12-104 QUORUM

A majority of the members of the planning commission shall constitute a quorum for the transaction of business. No action shall be taken and be binding upon the city planning commission unless concurred in by not less than a majority of the quorum.

Section 12-105 MEETINGS; ORGANIZATION AND RULES

The members of the city planning commission shall meet and

organize by electing a chairman, a vice-chairman, and secretary, whose terms shall be one year with eligibility for re-election. The commission shall adopt from time to time such bylaws, rules, and regulations and amendments thereto as may be necessary to effectuate the purposes of this chapter.

Section 12-106 RESERVED.

Section 12-107 POWERS AND DUTIES.

The planning commission shall have the power and the duty to prepare and recommend to the City Commission for adoption a comprehensive plan for the physical development of the city. In conducting its work the planning commission may consider and investigate any subject matter tending to the development and betterment of such municipality and may make recommendations as it may deem advisable concerning the adoption thereof to the City Commission. The planning commission may make or cause to be made surveys, studies, maps, and plans in the conduct of its activities. Before final action is taken by the City Commission on the location or design of any public building, statute, memorial, park, boulevard, street and alley, playground, public grounds, bridge or change in any location of any street or alley such question shall be submitted to the planning commission for investigation and report. In the preparation of the comprehensive plan the planning commission may from time to time prepare and recommend to the City Commission for adoption a part or parts thereof, which parts shall cover one or more major geographical divisions of the city or one or more major elements of the comprehensive plan. The planning commission may from time to time recommend extending, amending or changing any portion of the comprehensive plan.

Section 12-108 PURPOSES OF COMPREHENSIVE PLAN

In the preparation of such plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city, and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city, and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

Section 12-109 SUBDIVISION OF LAND.

The planning commission may prepare and recommend to the City Commission for adoption rules and regulations governing the subdivision of land within the corporate limits of the city. All plans, plats, or replats of land laid out in two (2) or more lots, plats, or parcels, or streets, or other ways intended to be dedicated to public use within the corporate limits of the city shall first be submitted to the planning commission for its recommendations. The planning commission shall, with the help of appropriate municipal officials, check the proposed dedications or subdivision of land to ensure compliance with the rules and regulations governing subdivisions of land and with other elements of the comprehensive plan for the city. The disapproval of any such plan, plat, or replat by the City Commission shall be deemed a refusal of the dedications shown thereon. No plat or replat of subdivision of land, or dedication of street or alley or other easement shall be entitled to record unless it bears the signature of the Mayor, attested by the city clerk, certifying the approval and acceptance thereof by the City Commission.

Section 12-110 UNIFORMITY OF REGULATIONS

The planning commission may recommend the division of the city into districts of such number, size, and area as may be deemed best suited to carry out the zoning purpose. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Section 12-111 COMPREHENSIVE PLAN; PURPOSE OF REGULATIONS AND MATTERS CONSIDERED

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. The latest addition of the Comprehensive Plan of the City of Cherokee, Oklahoma, is on file in the Office of the City Clerk and is incorporated herein by reference.

Section 12-112 PLANNING COMMISSION TO ACT AS ZONING COMMISSION

The city planning commission also shall act as the zoning commission and shall have the power to prepare and recommend to the City Commission, zoning district boundaries and appropriate regulations relating to the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.

DIVISION 2

BOARD OF ADJUSTMENT

Section 12-120 CREATION AND PROCEDURES, BOARD OF ADJUSTMENT ESTABLISHED

There is hereby created a board of adjustment consisting of five (5) members, who shall be appointed for a term of three (3) years, and removable for cause by the City Commission upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment shall be appointed by the Mayor and confirmed by the City Commission. The board of adjustment in effect on the effective date of this Section shall be constituted as the board of adjustment, with terms of three (3) years, or until their successors are appointed and qualified.

Section 12-121 MEETINGS AND RULES

The board of adjustment shall elect one of its members as chairman. The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board of adjustment shall be subject to the open meeting laws of the state, and all meetings, deliberations and voting of the board shall be open to the public. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and shall keep records of all official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

Section 12-122 APPEALS TO BOARD OF ADJUSTMENT

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city

affected by any administrative decision based on the city's zoning regulations.

B. Such appeal shall be taken within thirty (30) days from the date of the decision by filing with the officer from whom the appeal is taken and with the city clerk a notice of appeal specifying the grounds thereof, and by paying a filing fee established by the city. In addition, the appellant shall pay the cost of publishing the notice of the public hearing and any other costs associated with the hearing. The appellant shall pay such fee and costs upon filing the appeal. The zoning officer shall transmit to the board of adjustment the documents constituting the record.

C. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

D. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the city clerk to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of the written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.

E. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning classification of the property and the nature of the appeal or variance requested; and
3. Date, time and place of hearing.

F. Upon the hearing, any party may appear in person or by agent or by attorney.

Section 12-123 POWERS

A. The board of adjustment shall have the power to:

1. Hear and decide appeals if it is alleged that there is error in any order, requirement, decision, or determination made by the zoning officer in the enforcement of the zoning regulations;

2. Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use.

B. Variances may be allowed by the board of adjustment only after notice and hearing as provided in subsection D of Section 12-122 of this code. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.

Section 12-124 EXTENT OF RELIEF

A. When exercising the powers provided for herein, the board of adjustment, in conformity with the provisions of this part may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement or determination as ought to be made.

B. The concurring vote of at least three (3) members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it pursuant to the zoning regulations.

Section 12-125 VARIANCES

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance may be granted, in whole or in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

- A. The application of the ordinance to the particular piece of property would create an unnecessary hardship;
- B. Such conditions are peculiar to the particular piece of property involved;
- C. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive plan; and
- D. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Section 12-126 APPEAL TO DISTRICT COURT

- A. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the city to the district court by filing a notice of appeal with the city clerk and with the board of adjustment within sixty days from filing of the decision by the board, which notice shall specify the ground of such appeal. Upon filing of the notice of appeal as herein provided, the board shall transmit forthwith to the court clerk of the County of Alfalfa the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.
- B. An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the ordinance; and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

Division 3

CAPITAL IMPROVEMENT PLANNING COMMITTEE - FUNCTION AND DUTIES

Section 12-130. CAPITAL IMPROVEMENT PLANNING COMMITTEE- FUNCTION AND DUTIES:

- A. There is hereby created a Local Capital Improvements Planning Committee, (hereinafter the "Committee"), for the City, in compliance with the provisions of the Oklahoma Capital Improvements Planning Act (62 O.S., 1992 Supplement, Section 901, et seq., hereinafter the

"Act").

B. The Committee shall consist of at least three (3) but not more than ten (10) voting members, to be appointed by the Mayor, subject to the confirmation of the City Commission. All members must be residents of the City and shall serve without salary. The Committee shall not be a standing committee but shall be appointed, serve and conduct business, when and if they have business to conduct as determined by the Mayor of the City.

C. The terms and removal procedure for the members of the Committee shall be the same as for the members of the planning commission.

D. The Committee has the general responsibility to assist the City in planning for the future development, growth and improvement of the City and Alfalfa County, Oklahoma, and in preparing, adopting, implementing and annually amending the Local Capital Improvements Plan, (hereinafter the "Plan"), and its related programs, consistent with the goals, guidelines and other provisions of the Act.

E. The Committee shall also:

1. Prepare the City's Plan;
2. Make recommendations to the City Commission regarding the adoption of the Plan;
3. Serve in an ongoing advisory capacity to the City Commission regarding implementation of the Plan, particularly in the Annual Update phase of the planning of the process;
4. Conduct public hearings and solicit and encourage participation, as required by and in accordance with, applicable provisions of the Act;
5. Take such other actions as may be necessary to carry out the City's Capital Improvements Planning process, consistent with local ordinances and policy and State Law requirements, including the capacity to recommend agreements with other area jurisdictions, in order to carry out the purposes of the Capital Improvements Planning process; and
6. Maintain a working relationship with Northern Oklahoma Development Authority (hereinafter "NODA") in order to ensure that the statutory requirements for integrating the City's Plan into the NODA Regional Capital Improvement Plan, are fully met each year to the benefit of the City and the State of Oklahoma.

ARTICLE 2

ZONING REGULATIONS

DIVISION 1

DEFINITIONS AND GENERAL PROVISIONS

Section 12-201 TITLE

This Chapter shall be known as and may be cited and referred to as the "Zoning Ordinance of the City of Cherokee".

Section 12-202 PURPOSE

This Chapter is enacted for the purpose of encouraging the most appropriate use of land throughout the community and promoting the development of the community in accordance with a comprehensive plan.

Section 12-203 INTERPRETATION AND APPLICATION

The provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinance, the provisions of this chapter shall control. Terms and words are to be used and interpreted as defined in Section 12-205 of this chapter. The word "shall" is mandatory and not directory, except where the natural construction of the writing indicates otherwise.

Section 12-204 JURISDICTION

This ordinance shall be in full force and effect in the corporate limits of the city. Territory annexed to the corporate limits of the city, subsequent to the effective date of this chapter shall immediately be subject of the provisions of this chapter and shall be deemed to be designated as single-family residential district until altered or reclassified in the manner provided by law. In case any portion of this chapter shall be held to be invalid or unconstitutional, the remainder of the chapter shall not thereby be invalid but shall remain in full force and effect. Any ordinance now in effect that conflicts with any provision of this chapter is hereby repealed.

Section 12-205 DEFINITIONS

For the purpose of these regulations, the following terms shall have the meanings respectively provided herein:

1. "Accessory use of structure" means a use or structure customarily incidental, appropriate and subordinate to the principal use of a building or to the principal use of land and which is located upon the same lot therewith;

2. "Agriculture" means the use of land for agricultural purposes including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided that the above uses shall not include the commercial feeding of swine or other animals, stockyards or commercial feed lots for cattle;

3. "Alley" means a minor right-of-way dedicated to public use affording a secondary means of access to abutting property;

4. "Automobile or trailer sales area" means an open area, other than a street, used for the display, sales or rental of new or used motor vehicles or trailers in operable condition;

5. "Automobile repair" means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning;

6. "Automobile service station or filling station" means any area used for retail sale of gasoline or oil fuels or automobile accessories and incidental services including facilities for lubricating, and washing and cleaning, but not including the sale of butane or propane fuels;

7. "Automobile wash or automatic car wash" means a building or structure or chain conveyor, blowers, steam cleaners and other mechanical devices used primarily for the purpose of washing motor vehicles;

8. "Block", in describing the boundaries of a district, refers to the legal description. In all other cases, the word "block" refers to the property abutting on one side of the street between two (2) intersecting streets or between an intersecting street and a railroad right-of-way or between an intersecting street and a watercourse;

9. "Boarding house and rooming house" means where meals or lodging are provided for persons other than the family or their relatives and excluding facilities for transient persons such as hotels, motels, inns and other such facilities;

10. "Board of adjustment" means the board of adjustment of the city, also referred to as the "board";

11. "Building" means any structure having a roof supported by columns or walls that is used or intended to be used for the shelter or enclosure of persons, animals, or property;

12. "Building height" means the vertical distance of the highest points of the building;

13. "Building line" means a line established beyond which no part of a building shall project, except as otherwise provided by this chapter;

14. "Building principal" means a building or buildings in which the principal use of the building site is conducted. In any residential district, any dwelling shall be deemed to be the principal building on the building site;

15. "Bulletin board" means any sign announcing the activities of an educational, religious, institutional or similar use;

16. "Cemetery" means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes;

17. "Child care center" means any place, home or institution other than schools or churches which receives three (3) or more children under the age of sixteen (16) years for care apart from their natural parent, legal guardians or custodians, and received for regular periods of time for compensation;

18. "City Council" or "City Commission" shall mean the official governing body of the city;

19. "City planning commission" means the Cherokee City Planning Commission, as established by the statutes. The city planning commission shall also be the zoning commission for the city;

20. "Clinic" means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those in need of surgical or medical attention but who are not customarily provided with board and room or kept overnight on the premises;

21. "Club" means a nonprofit association of persons who are bona fide members, paying regular dues, and organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise;

22. "Comprehensive plan" means the official city plan of the city; also refers to the specific document, "Comprehensive Plan of Cherokee, Oklahoma";

23. "Convalescent home" means a nursing home, a rest home, a home for the aged, recuperating, chronically ill, or incurable persons, in which two (2) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury;

24. "Coverage" means the lot area covered by all buildings located thereon including the area covered by all overhanging roofs;

25. "Dwellings" means any building or portion thereof designed or used as a residence of one or more persons, but not including a tent, cabin, boarding or rooming house, hotel or motel;

26. "Dwelling, single-family" means a building containing one dwelling unit and designed for or used exclusively by one family;

27. "Dwelling, two-family" means a building containing two (2) dwelling units and designed for or used exclusively by two (2) families; also includes the word "duplex";

28. "Dwelling, multi-family" means a building or portion thereof containing three (3) or more dwelling units and designed for or used by three (3) or more families; also includes the word "apartments";

29. "Dwelling unit" means a room or group of rooms arranged, intended or designed as a habitable unit, containing kitchen, bath and sleeping facilities for not more than one family living independently of any other family;

30. "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories thereof, reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings;

31. "Family" means a person living alone or two (2) or more persons related by blood or marriage, living together as a single

housekeeping unit, for culinary purposes, as distinguished from a group occupying a boardinghouse, lodging house, hotel or motel;

32. "Floor area" means the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of the exterior walls or from the center lines of walls separating two (2) buildings;

33. "Frontage" means the lineal measurement of a lot boundary which is abutting a street;

34. "Garage apartment" means a dwelling for one family erected as a part of a private garage;

35. "Garage, parking" means any building or portion thereof used for the storage of four (4) or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided;

36. "Garage, public or for repair" means the structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repairing or refinishing of any vehicles;

37. "Garage, private" means a detached accessory building or a portion of the principal building used or intended for use by the occupants of the premises for storage of passenger vehicles or trailers;

38. "Home occupation" means any occupation carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building; provided that no trading and merchandising is carried on and in connection with which there is no display of merchandise or advertising sign other than one non-illuminated name plate, not more than two (2) square feet in area, attached to the main or accessory building, and no mechanical equipment is used except such as is customarily used in purely domestic or household purposes. A tea room, restaurant, rest room, clinic, barber shop, doctor's or dentist's office, child care center, tourist home or cabinet shop, metal shop, lawn mower repair, or auto repair garage shall not be deemed a home occupation;

39. "Hotel" means a building or group of buildings containing six (6) or more sleeping rooms occupied or intended or designated to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation;

40. "Industry" means the storage, repair, manufacture, preparation or treatment of any article, substance, or any commodity for commercial use;

41. "Institutional uses" means those uses organized established, used or intended to be used for the promotion of a public, religious, educational charitable, cultural, social, or philanthropic activity and normally operated on a nonprofit basis;

42. "Junk or salvage yard" means a place where waste, discarded or salvage materials are bought, sold, exchanged, bailed, packed disassembled or handled, including all wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvage material incidental to manufacturing operations;

43. "Kennel" means any structure or premises on which three (3) or more dogs are kept;

44. "Loading space" means a space on the same lot as the principal use of at least ten (10) feet in width and thirty (30) feet in length and having a vertical clearance of at least fourteen (14) feet, designated for the temporary parking of commercial vehicles while loading or unloading merchandise or materials;

45. "Lot or parcel" means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this chapter, and having access on a public street;

46. "Lot, corner" means a lot which has at least two (2) adjacent sides abutting on a street;

47. "Lot, depth" means the horizontal distance between the front and rear lot lines;

48. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot;

49. "Lot, interior" means a lot other than a corner lot;

50. "Lot, line" means any boundary of a lot;

51. "Lot line, front" means the boundary of a lot which abuts a public street, where the lot abuts more than one street, the owner may select the front lot line;

52. "Lot line, rear" means the boundary of a lot which is most distant and most nearly parallel to the front lot line;

53. "Lot line, side" means any boundary of a lot which is not a front lot line or a rear lot line;

54. "Lot, wedge shaped" means a lot situated so that the front is either wider or narrower than the rear of the lot;

55. "Lots of record" means a separate and distinct parcel designated on a legally recorded subdivision plat or a legally recorded deed filed in the records of Alfalfa County, State of Oklahoma;

56. "Mean lot elevation" means the average elevation of a lot;

57. "Medical facilities" means:

a. Dental or medical clinic or doctor or dentist offices: A building used for the examination and treatment of the physically ill;

b. Hospital: An institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities;

c. Nursing homes, rest or convalescent homes; and

d. Public Health Center: A facility primarily utilized by a health unit for providing public health services, including related facilities;

58. "Mobile Home" means a manufactured, detached structure not meeting the one-and two-family structure requirements of the building code, but which is originally designed, constructed, and used for long-term occupancy as a complete single-family dwelling, is mounted on a permanent chassis with wheels attached thereto which is transportable in one or more components or two (2) or more units separately towable but designed to be joined into one integral unit, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or permanent foundations, skirting, connection to utilities and similar operations. Mobile homes shall have a steel frame and are tied down with straps and

rest on blocks or similar foundation, footing or stem wall. Motor Homes, Travel trailers and Camping trailers are not deemed Mobile Homes for the purpose of this Section.

59. "Mobile home park" means a parcel of land which has been planned and improved for placement of mobile homes to be occupied as residences;

60. "Mobile home lot" means a portion of a mobile home park allocated to the exclusive use of the occupants of a single mobile home;

61. "Motel" means an area containing one or more buildings designed or intended to be used as temporary sleeping facilities;

62. "Open space" means an area included in any side, rear, or front yard, or any other unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices and eaves of porches;

63. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between the floor and the ceiling next above it;

64. "Street" means a public right-of-way which provides the primary public means of access to abutting property and used primarily for vehicular circulation;

65. "Structural alteration" means any change in the structural members of a building, such as walls, columns, beams or girders;

66. "Structure" means anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground (not including sidewalks, driveways and similar improvement area);

67. "Trailer" means a portable or mobile unit, other than a mobile home, used or designed to carry or transport material or animals;

68. "Yard" means a required space on a lot unobstructed except as expressly permitted;

69. "Yard front" means a yard extending across the full width of a lot from side lot line to side lot line abutting on a street, into which a building may not protrude;

70. "Yard rear" means a yard extending across the rear of a lot measured from side lot line to side lot line; and

71. "Yard side" means a yard extending from front yard to the rear yard abutting the side lot line, into which no building may protrude.

72. Zero Lot line shall mean the location of a building on a lot in such a manner that one of the building's sidewalls rests directly on a lot line.

DIVISION 2

ESTABLISHMENT OF DISTRICTS

Section 12-210 ZONING DISTRICTS ESTABLISHED

For the purpose of this chapter and the promotion of public health, safety and general welfare of the community, the following districts are hereby established for the city:

- A. A-G agricultural district
- B. R-G residential district
- C. R-1 single-family residential district
- D. C-O commercial office district
- E. C-1 commercial zoning district
- F. C-2 general commercial zoning district
- G. C-3 commercial business district
- I. I-1 industrial district.
- J. I-2 industrial district.
- K. S-U special use

Section 12-211 ZONING MAP ADOPTED

A timely and proper notice was published in the Cherokee Republican notifying the public of a hearing before the Cherokee Planning Commission which hearing was held on the 10th day of October 2013, at 5:00 p.m., concerning the adoption of a zoning map for the City of Cherokee, Oklahoma. A copy of such affidavit of publication

is on file in the Office of the City Clerk. Many residents appeared at the meeting and made suggested amendments which have been made to the zoning map. The notice also provided that the map could be approved at the meeting of the City Council held on that same day at 7:00 p.m. or at a later Council meeting convened for that purpose. On the 13th day of January 2016, the Cherokee City Council convened for the purpose of adopting the zoning map, with locations and boundaries of the zoning districts as provided in the "Zoning Map of the City of Cherokee, Oklahoma dated the 13th day of January 2016 ("Zoning Map"), which Zoning Map shall be displayed in City Hall and placed on file in the Office of the City Clerk and shall serve as the Zoning Map of the City of Cherokee, Oklahoma, for all purposes.

Section 12-212 DISTRICT BOUNDARIES ESTABLISHED

The boundaries of a zoning district shall extend to a center line of abutting streets, regardless of the legal description used in establishing such districts. In the event of uncertainty in the exact boundaries of any of the districts as shown on the "Zoning Map of the City of Cherokee" the planning commission, upon written application or upon its own motion, shall recommend the location of such boundaries to the board of adjustment, and the board of adjustment shall make the final determination.

Section 12-213 MAINTENANCE OF OFFICIAL ZONING MAP

It shall be the duty of the zoning administrator to maintain an up-to-date official "Zoning Map of the City of Cherokee, Oklahoma", including all amendments directly adopted by the City Council.

DIVISION 3

GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

Section 12-220 APPLICATION OF REGULATIONS IN DISTRICTS AUTHORIZED

No land, building structure, or improvement shall be used and no building, structure or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, coverage, yard, space, and other requirements established in the district in which such land, building, structure, or improvement is located, and such use is authorized, except as provided in the article entitled "Non-conformities".

Section 12-221 USE OF YARDS AND DIVISION OF LOTS

A. No building, structure, or improvement shall be permitted to encroach upon required yard spaces set forth in the provisions of this chapter; provided, however, that surfaced parking facilities, signs, fences, and gasoline pumping service units may be permitted to occupy required yard space unless otherwise prohibited in those districts permitting such improvements and provided that no inoperative vehicle may be stored in the front yard of a lot in a residential district.

B. An improved lot shall not hereafter be divided into two (2) or more lots unless all lots resulting from such division comply with all the applicable yard, space, area, parking and loading regulations of the zoning district in which located.

Section 12-222 STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

Except as otherwise provided in Article 5 herein, commercial vehicles and trailers of all types, including travel, camping and hauling, and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

A. No more than one commercial vehicle, which does not exceed two and one-half (2 ½) tons rated capacity, per family living on the premises shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products to be permitted;

B. No more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted. A camping or travel trailer shall not be occupied permanently while it is parked or stored in any area within the incorporated limits, except in a mobile home park authorized under the ordinances of the city, except as provided for in Section 12-223 and as provided by Article 5 of this Chapter;

Section 12-223 DISPLAY OF TRAILERS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

Commercial vehicles and trailers of all types may be displayed in such commercial districts allowing sales of the vehicles or in such industrial districts allowing the manufacture; provided, however, the vehicles may not be used for dwelling purposes either temporarily or permanently, except as otherwise provided by Article 5 herein.

Section 12-224 SPECIFICATIONS FOR SCREENING WALL OR FENCE.

When the provisions of this chapter require the construction of a screening wall or fence as a condition for the initiation and subsequent continuance of a use, the screening wall or fence:

A. Shall be constructed, designed, and arranged to provide visual separation of uses, irrespective of vegetation;

B. Shall not be less than five (5) feet nor more than eight (8) feet in height; and

C. Shall be constructed with all braces and supports on the interior.

Section 12-225 MAINTENANCE OF SCREENING WALL OR FENCE.

The screening wall or fence shall be maintained by the owner of the zoning lot containing the use requiring the construction of the screening. Failure to maintain after notice by the zoning administrator shall constitute an offense hereunder.

Section 12-226 SEWER SERVICE.

No structure or use in any district shall be erected or commenced which does not have a connection to the public sewer system, unless and until the county public health officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, the public health officer may require such percolation tests as he deems to be necessary. Such tests are to be made at the expense of the property owner.

Section 12-227 PARKING SPACE DEFINED.

The term "parking space," as used in this Division, shall mean a parcel of land or a stall Two Hundred (200) square feet in area, exclusive of drives, lanes or aisles, provided with an unobstructed access thereto from a public street, alley or other open space approved by the city.

Section 12-228 OFF-STREET PARKING REQUIRED.

In all residential, commercial and industrial use districts, parking space, as defined herein, shall be provided and maintained as accessory to every principal use, building or structure enumerated in this Division, whenever the principal use, building or structure is hereafter erected or enlarged.

Section 12-229 SCHEDULE OF PARKING SPACE REQUIREMENTS.

For buildings or structures containing more than one occupancy use, the total number of parking spaces required shall be the sum of the number of parking spaces for each individual occupancy or use. Such parking space shall be provided for any principal use, building, or structure, in compliance with the following schedule of requirements:

A. Assembly halls, convention halls, exhibition halls, auditoriums, lecture halls, theaters, stadiums, and any other places of indoor or outdoor assembly: Parking spaces required: One for each four (4) fixed seats, or one for each sixty (60) square feet of assembly floor space where the seats are not fixed, with a minimum of four (4).

B. Automobile washing stations, parking spaces required: Four (4) reserve spaces per washing stall.

C. Automobile service stations, parking spaces required: One for each thousand (1,000) square feet of gross lot area, with a minimum of two (2).

D. Barber shops and beauty shops, parking spaces required: Two for each chair, with a minimum of two (2).

E. Bowling alley, parking spaces required: Four (4) for each lane, plus one per three hundred (300) square feet of gross floor area used for other purposes.

F. Child care centers or nursery schools, parking spaces required: Two (2) for each three (3) employees, plus one for each six (6) children that the center is licensed to accommodate.

G. Churches, or places of worship, parking spaces required: One for each five seats, at maximum capacity, with a minimum of four (4).

H. Cleaners, automatic self-help, parking spaces required: One for each two (2) washing or cleaning machines, or one for each one hundred (100) square feet of gross floor area, whichever is the greater.

I. Drive-in windows, parking spaces required: Four (4) reserve spaces per Drive-in window.

J. Dwellings, parking spaces required:

1. Single-family, one per bedroom with a minimum of two (2).

2. Multiple-family, two (2) per unit in the dwelling with a minimum of four (4).

K. Group Home: A group home is a facility, licensed by the State of Oklahoma, providing housing services to persons with developmental disabilities. For purposes of zoning, a Group Home providing housing services to five (5) or fewer persons not including staff, shall be considered a single family. One off-street parking space for each staff member calculated on the basis of the maximum on duty at any one time, and one parking space for each four residents.

L. Home occupation, parking spaces required: One (1) in addition to the space required for such residential dwelling.

M. Hotels, transient, parking spaces required: One per thousand (1,000) feet of gross floor area, or one per bedroom, whichever is the greater.

N. Libraries and art galleries, parking spaces required: One for each one hundred (100) feet of floor area with the minimum of two (2).

O. Manufacturing, warehousing or wholesaling, parking spaces required: Three-fourth space per each employee, calculated on the basis of maximum employees on duty at any one time.

P. Medical clinics, parking spaces required: One for each one hundred fifty (150) feet of gross floor area, with a minimum of three (3).

Q. Mortuaries and funeral homes, parking spaces required: One for each one hundred (100) square feet of gross floor area, or one for each three (3) seats in assembly area, whichever is greater, with a minimum of three (3).

R. Motels, parking spaces required: One per sleeping room.

S. Office buildings, parking spaces required: One for each four hundred (400) square feet of gross floor area, with a minimum of four (4).

T. Passenger stations, parking spaces required: Two (2) per one hundred (100) square feet of waiting area.

U. Private clubs, parking spaces required: One for each four (4) seats provided for customer use, plus one per employee.

V. Public housing (low income), parking spaces required: One per dwelling unit with a minimum of two (2).

W. Retail stores, parking spaces required:

1. Retail stores either free standing or in a shopping center of less than 25,000 square feet parking spaces required: One for each two hundred (200) square feet of floor area (unless otherwise specifically mentioned herein).

2. Retail shopping centers having gross leasable area of over 25,000 square feet, parking spaces required: 4.5 for each 1000 square feet of gross leasable area. (One for each two hundred twenty-two square feet of floor area).

X. Restaurants, parking spaces required: One for each four (4) seats provided for customer use, plus one per employee.

Y. Rest homes, philanthropic, rooming homes, asylums, hospitals, sanitariums, parking spaces required: One for each (4) beds, or one for each bedroom, whichever is greater, with a minimum of four (4).

Z. Rooming or boarding houses, one for each two hundred (200) square feet of gross floor area, or one per bedroom, whichever is greater, with a minimum of four (4).

AA. Schools, parking spaces required:

1. Elementary or junior high, one for each classroom and two (2) for each office, with a minimum of four (4).

2. Other schools, a maximum combination of two (2) for each classroom, plus one for each five (5) auditorium seats, with a minimum of four.

BB. Parking for physically disabled for business or industrial districts: One space for each 25 spaces provided with a minimum of one or otherwise provided by the City's building code.

Section 12-230 DEVELOPMENT AND USE OF PARKING SPACES.

The development and maintenance of the premises for the parking of motor vehicles shall be in compliance with the following:

A. Parking spaces as regulated herein shall not be reduced in number or size.

B. In all off-street parking areas containing more than three (3) parking spaces, ingress and egress shall be provided in a manner that will prevent vehicles from backing directly into the traffic lanes of any highway or major arterial.

C. Parking places shall be surfaced in accordance with specifications approved by the City Council to prevent the raising of dust.

D. All lights used to illuminate such parking spaces shall be installed to prevent glare into abutting property.

E. Required parking spaces for property used for residential purposes shall be located on the same lot as the principal building or upon an adjoining lot. Required parking places for property other than that used for residential purposes shall be located on the same lot as the principal building or on an adjoining lot, except that if insufficient space exists on the same adjoining lot, all or any part of the required parking spaces may be located in any area which permits parking, within three hundred (300) feet of the principal building measured along lines of public access from the nearest boundary of the parking area to the principal building entrance without crossing an arterial street, provided that the location and plan of operation of said parking area shall be approved by the governing body after due hearing and provided further, that a copy of such approval together with any conditions or limitations attached thereto, shall be recorded with the county register of deeds, and shall be covenant running with the land as long as the uses of the premises require the parking. For the purpose of this article, lots separated only by an alley, easement or street, shall be considered as adjoining lots.

F. Land designated as the required parking area shall be considered as a part of the site of the principal building and the certificate of occupancy for any such principal building shall be valid only during such time as the required number of parking spaces are provided in accordance with this article, and where the parking spaces are on adjoining or other lots other than the one upon which the principal use is located, the certificate of occupancy shall so state and shall be recorded in the office of the register of deeds of the county.

G. Joint use of required parking space by non-conflicting uses is to be encouraged and shall be permitted provided that the maximum parking demands of joint uses occur at non-overlapping times. Joint use parking facilities may carry a zoning designation of either principal use.

Section 12-231 PAVED SURFACE REQUIRED.

Except as otherwise provided in this chapter, all parking spaces shall be paved with a sealed surface permanent and maintained in a manner that no dust will result from continued use.

Section 12-232-234 RESERVED.

Section 12-235 LOCATION OF ADULT NOVELTY SHOPS.

A. As used in this Section:

1. "Adult novelty shop" means a commercial establishment located within the corporate limits of the City and which displays, sells, or offers for sale instruments, devices, or paraphernalia designed or marketed primarily for use to stimulate human genital organs or for use in connection with sadomasochistic practices; and

2. "Sadomasochistic practices" means flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

B. Any adult novelty shop to be located within the City shall be permitted only in a C-2 General Commercial Zoning District, subject to a use by review application and approval, as provided in Section 12-282. Further the location of such adult novelty shop is specifically prohibited within one thousand (1,000) feet of:

1. Any building primarily and regularly used for worship services and religious activities;
2. Any public or private school;
3. Any public park or playground;
4. Any public library; or
5. Any land zoned or used for residential purposes.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, any public library or any land zoned or used for residential purposes shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance indicated in this subsection shall be measured from the nearest property line of

such church or school to the nearest public entrance door of the premises of the adult novelty shop along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.

DIVISION 4

NONCONFORMITIES

Section 12-240 NO NONCONFORMITIES USES, INTENT.

Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter.

Section 12-241 NONCONFORMING LOTS OF RECORD.

In any district in which a lot exists of record at the effective date of the adoption or amendment of this chapter which does not conform in size or area to the provisions of this chapter, buildings for the uses permitted in such district may be erected on such lot, notwithstanding limitations imposed by other provisions of this chapter, provided that such lot is in separate ownership and not of continuous frontage with other lots in the same ownership.

Section 12-242 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity; and

B. Should such structure be destroyed by any means to an extent of more than ninety-five percent (95%) in value, it shall not be reconstructed except in conformity with the provisions of this chapter.

Section 12-243 NONCONFORMING USES OF STRUCTURES.

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming uses may not thereafter be resumed, except as provided in this chapter;

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located; and

E. Where nonconforming use status applies to a structure and premises in combination, removal or intentional destruction of the structure shall eliminate the nonconforming status of the land.

Section 12-244 NONCONFORMING USES OF LAND.

A. Where, at the effective date of adoption or amendment of this chapter, lawful uses of land exist that are no longer permissible under the terms of this chapter as enacted or amended, such uses may be

continued so long as they remain otherwise lawful, subject to the following provisions:

B. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

Section 12-245 CHANGES IN NONCONFORMITY.

A nonconforming use of a structure, or of a structure and land in combination, shall not be changed to a different nonconforming use unless changed to a use permitted in the district in which located; except that the board of adjustment may permit a change to a different nonconforming use and such change shall be construed as an abandonment of the former permitted nonconforming use.

Section 12-246 THROUGH 12-229 RESERVED.

DIVISION 5

SPECIFIC DISTRICT REGULATIONS

Section 12-250 A-G AGRICULTURAL DISTRICT, GENERAL DESCRIPTION.

The A-G agricultural district is established for several purposes:

A. To provide for the continued use of land for predominantly agricultural purposes;

B. To preserve undeveloped areas until they can feasibility be developed to urban standards and with adequate public safeguards of health, safety, etc.; and

C. To restrict development in areas subject to severe inundation until such time as it can be shown that these areas are no longer subject to flooding.

Section 12-251 USES PERMITTED.

Within the A-G agricultural district, the following uses are permitted:

1. Agricultural, as defined in this chapter;
2. Single-family dwellings and multiple family dwellings;
3. Churches and temples;

4. Elementary schools and high schools;
5. Golf courses, and including golf driving ranges, pitch and putt courses, or miniature golf courses;
6. Parks and forest preserves operated for profit;
7. Temporary buildings and uses for construction purposes only and not for dwelling purposes, nor for a period that exceeds the completion of construction;
8. Accessory buildings or uses incidental to the foregoing principal uses;
9. Municipal or community recreation centers;
10. Police or fire stations;
11. Public buildings or buildings operated in the public interest by a not-for-profit corporation, including art galleries, post offices, libraries, or museums;
12. Public or not-for-profit auditoriums, stadiums, arenas, armories, or sanitariums;
13. Public or private hospitals or sanitariums;
14. Public or private schools or colleges; and
15. Public utility and service uses including electric substations, gas regulator stations, electric, gas, telegraph, telephone and water transmission metering and distribution equipment and structures, microwave relay towers, water reservoirs or pumping stations, and other similar facilities.

Section 12-252 USES PERMITTED BY REVIEW IN A-G AGRICULTURAL DISTRICT

The following uses may be permitted after review and approval by the Planning Commission and City Council in accordance with Section 12-287C, D, E, F and G (Use by Review)

1. Mobile or manufactured homes, and Mobile Homes Parks (in compliance with Section 12-265 of this code meeting the terms and condition imposed by Article 5 of this Code.

Section 12-253 AREA AND HEIGHT REGULATIONS.

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
1 Acre	100'	None	100'	25'	10'	10'

All lots and improvements within the A-G district shall meet the following requirements:

A. All lots shall have not less than one acre of land, and not more than one principal building shall be placed on any one lot;

B. Each lot shall have a frontage of not less than one hundred (100) feet;

C. No improvement or structure shall exceed one hundred (100) feet in height above the mean elevation of the lot;

D. All structures shall have not less than a twenty-five (25) foot front yard setback;

E. All principal structures shall have not less than a ten (10) foot side yard setback. Accessory buildings may have a rear yard of not less than ten (10) feet.

Section 12-253-259 RESERVED.Section 12-260 R-G RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

This residential district is intended to provide for both low and high population density. It is established as a district in which the principal uses of the land are for single-family dwellings and multi-family dwellings and high-density residential development. The intent is to prohibit commercial and industrial uses or any other use which would substantially interfere with the development or continuation of single-family dwellings and multi-family dwellings in this district. It is further intended to discourage any use which would generate traffic or create congestion on the neighborhood streets other than the normal traffic which serves the dwellings or similar residential uses in this district, and discourage any use which because of its character or size, would create additional requirements and costs for public services which would be in excess of such requirements and costs if the district were developed solely for single-family and multi-family or other similar residential uses.

Section 12-261 USES PERMITTED.

Within the R-G residential district, the following uses are permitted:

1. Single-family detached dwellings;
2. Duplex;
3. Multi-family dwelling;
4. Rooming or boarding house;
5. Public and private schools;
6. Public park or playground;

7. Agricultural uses of the garden type that are not intended for commercial purposes; and

8. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

Section 12-262 USES PERMITTED BY REVIEW IN R-G RESIDENTIAL DISTRICTS

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287C, D, E, F & G (Use by Review):

1. Accessory buildings and uses which are not customarily incidental to the Permitted Uses;
2. Child care centers or day nurseries, provided they are located on a lot not less than ten thousand (10,000) square feet in area;
3. Churches with a minimum lot size of one acre;
4. Community services, cultural and utility facilities, provided they are located on a lot of not less than one acre;
5. Convalescent homes, rest home, nursing home, and hospitals, public or private;
6. Golf course, private or public, or country club, provided that the chief activity is for recreational purposes, and any commercial activity is accessory or incidental thereto;

7. Home occupation, provided that it is in keeping ~~the~~ with the meaning of "home occupation" as defined in this chapter;
8. Junior high or senior high schools;
9. Library;
10. Mobile or manufactured homes, within the zoning district but not on Grand Avenue, and Mobile Home Parks (in compliance with Section 12-265 of this code meeting the terms and conditions imposed by Article 5 of this code.
11. Plant nursery, provided that no building or structure is maintained in connection therewith and no retailing of any material is carried on upon the premises;
12. Temporary structures which are incidental to the construction of the main building and will be removed when the main structure is completed.

Section 12-263 AREA AND HEIGHT REGULATIONS FOR RESIDENTIAL DISTRICTS.

Single-Family:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
3000 Sq. feet	25'	60%	35'	25'	5'	20'

Duplex:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
5000 Sq. feet	35'	75%	35'	25'	5'	20'

Multi-Family:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
6000 Sq. feet	50'	75%	35'	25'	5'	20'

All lots and improvements within the R-G district shall meet the following requirements:

A. All lots shall have an area of not less than three thousand (3,000) square feet for a single-family dwelling, five thousand (5,000) square feet for a two-family dwelling, or six thousand (6,000) square feet for each dwelling unit over two (2) for multi-family dwellings. For uses other than dwelling purposes, the lot area shall not be less than six thousand (6,000) square feet except as otherwise specified.

B. Each lot shall have a frontage of not less than twenty-five (25) feet for single-family dwelling, thirty-five (35) feet for two-family dwelling, and fifty (50) feet for multi-family dwelling and all other uses;

C. Not more than seventy-five percent (75%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision;

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot;

E. A minimum front yard setback of twenty-five (25) feet shall be provided on all single-family and duplex and multi-family dwellings;

F. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet; and

G. A rear yard of twenty (20) feet of the depth of the lot shall be provided for the principal building in an R-G Residential District. Unattached buildings or structures which constitute an accessory use may be located in the rear yard of a principal building provided, however, that no accessory building shall be located closer than five feet (5') to the rear lot line.

H. Not more than one (1) principal building shall be placed on any one (1) lot.

Section 12-264 RESERVED

Section 12-265 RESERVED.

Section 12-270 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

The R-1 single-family residential district is established as a district in which the use of land is for single-family dwellings except as noted. It is the purpose and intent of this district to promote the

development of and the continued use of the land for single-family dwellings and to prohibit commercial and industrial use or any other use which would substantially interfere with the development or continuation of single-family dwellings in this district. The intent is to further discourage any use in this district which would generate traffic or create congestion on neighborhood streets other than the normal traffic which serves the residents in the area. This district further encourages only those uses which, because of character or size, would not create additional requirements and costs for public services in excess of requirements and costs for single-family dwellings. The intent is to encourage the discontinuance of any existing uses that would not be permitted as new uses under the provisions of this chapter.

Section 12-271 USES PERMITTED.

Within the R-1 single-family residential district, the following uses are permitted:

A. Single-family detached dwellings and duplexes, subject to the requirements of Section 12-273 but not including mobile homes, Mobile Home Parks or similar structures;

B. Public park or playground, public buildings, public utility and municipal uses, and publicly owned recreational facilities;

C. Agricultural uses of the garden type that are not intended for commercial purposes, nor the raising of livestock; and

D. Accessory buildings and uses which are not a part of the main building including a private garage or accessory buildings which are a part of the main building, including a private garage.

Section 12-272 USES PERMITTED BY REVIEW IN R-1 RESIDENTIAL DISTRICTS.

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287C, D, E, F & G (Use By Review), contingent upon the performance of reasonable conditions, including but not limited to adequate off-street parking:

1. Churches;
2. Library;
3. Home occupation;
4. Plant nursery, provided that no building or structure is maintained in connection therewith and no retailing of any

materials is carried on upon the premises;

5. Golf course, private or public, or country club, provided that the chief activity is for recreational purposes, and any commercial activity is accessory or incidental thereto, and not including miniature golf courses, driving ranges or pitch and putt golf courses;
6. Public or private schools; and
7. Temporary structures which are incidental to the construction of the main building and will be removed when the main structure is completed.

Section 12-273 AREA AND HEIGHT REGULATIONS FOR R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
6000	60'	60%	35'	25'	5'	20'

Sq. feet

Interior Lots 10' Street Side of Corner lots

All lots and improvements within the R-1 district shall meet the following requirements:

A. All lots shall have not less than six thousand (6,000) square feet of lot area and not more than one principal building shall be placed on any one lot;

B. Each lot shall have a frontage of not less than sixty (60) feet;

C. Not more than sixty percent (60%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of these provisions;

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot;

E. All structures shall have not less than a twenty-five (25) foot front yard setback; and

F. For a single-family dwelling of one story, the minimum width

of the side yard shall be five (5) feet for interior lot lines and ten (10) feet for the side yard abutting the side street on a corner lot.

G. A rear yard setback of twenty (20) feet of the depth of the lot shall be provided for the principal building in a R-1 Single Family Residential District. Unattached buildings or structures which constitute an accessory use may be located in the rear yard of a principal building provided, however, that no accessory building shall be located closer than five feet (5') from the rear lot line.

Section 12-274 RESERVED

Section 12-275 HOME OCCUPATIONS.

A. Purpose

Home occupations:

1. Can be an incubator for new business;
2. Can help people enter or stay in the work force who might otherwise be unable to work; and/or
3. Can provide jobs for the elderly or those who do not wish to work in a conventional work setting, and those for whom a conventional work setting does not exist or work.

On the other hand, home occupations can sometimes be intrusive on a residential neighborhood and can become nuisances. This section takes into consideration the effect of a home occupation on traffic patterns, parking availability, aesthetics, and nuisances and is designed to maintain a residential character in residential neighborhoods.

B. Definition

"HOME OCCUPATION" is an accessory use of a dwelling unit located in any residential district for the purpose of gainful employment conducted by a member of the family residing in the dwelling which is clearly customary, incidental and a subordinate secondary use of the dwelling unit as a residence and does not alter the exterior of the property or affect the residential character of the neighborhood.

C. Home Occupations Permitted by Right

The following home occupations shall be permitted by right, but shall comply with the provisions set out in subsection E:

Artists

Authors and Composers
 Catering/Food Service
 Computer Programming
 Home cooking and preserving
 Home crafts
 Ironing
 Sewing
 Telephone answering and/or solicitation
 Tutorial service

D. Prior to commencement of a Home Occupation, accessory uses of a dwelling unit used for gainful employment, that meet the definition of Home Occupation and which comply with the provisions set out in subsection E, but which are not permitted by right to be a Home Occupation as provided in subsection C, are subject to a use by review process as provided in Section 12-287C, D, E, F & G entitled "Uses by Review." The Planning Commission and/or City Council may provide for any specific condition or requirement necessary to further the purpose of the Home Occupation, including but not limited to requiring additional parking spaces, if necessary. In the event the Home Occupation is granted, such use shall be terminated in the event:

1. Ownership of the property changes. The approval of a Use by Review for a home occupation is intended to be for the existing land owner only. Any transfer of ownership after the home occupation is approved nullifies the particular approved use.

2. The nature of home occupation changes from that which was reviewed.

3. The home occupation lapses for a period of ninety (90) days.

4. Reviewed conditions and agreements are not followed.

E. Requirements for all Home Occupations, whether by right or permitted according to the use by review process.

1. The use is conducted entirely within:

- a. The principal dwelling unit and attached garage and/or

- b. One accessory building.

Such use is limited to members of the family or other residents residing in the dwelling unit; provided however, one additional employee may be specifically permitted by Board recommendation and Commission approval.

2. No vehicular traffic shall be generated by the home

occupation business in greater volumes than would reasonably be expected in the residential neighborhood or create unreasonable parking or traffic congestion for the abutting or adjoining neighbors or for the immediate neighborhood. Any parking or traffic of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, shall be considered unreasonable. It shall be a defense to prosecution under this subsection that the parking or traffic created was reasonable under the totality of the circumstances existing in the neighborhood.

3. The use is clearly incidental and secondary to the residential use of the dwelling and may not alter the existing residential character of the principal dwelling or garage/accessory building to comply with nonresidential construction code is prohibited, except for accessibility requirements.

4. Except as herein provided, a change in the outside appearance of the dwelling unit or lot indicating the use or conduct of a home occupation, including advertising signs or displays is prohibited. All equipment, goods, wares, merchandise or materials associated with home occupation, including equipment, goods, wares, merchandise or materials located in or on vehicles, must not be visible from any public street or public right-of-way or from other location off the premises.

5. The direct sale of commodities, goods, wares, materials, merchandise or products to the general public is prohibited unless:

a. The sale was made after an appointment to view the commodities, goods, wares, materials, merchandise or products occurred between the seller and purchaser;

b. The sale was made pursuant to an order filled on the premises pursuant to a prior individual oral or written invitation; or

c. The sale was made pursuant to a prior individual oral or written invitation or if placed earlier by a customer by phone, mail, Internet, or on or off-site sales parties.

6. Excepting one (1) non-illuminated nameplate not more than two (2) square feet in an area attached to the main or accessory building or located on the real property and/or advertising on a vehicle as herein provided. For purpose of this section "vehicle" is defined as a passenger automobile, passenger van, motorcycle or pick-up truck. All advertising on vehicles shall be mounted flat against or painted on the vehicle and shall not refer to the street address of the home occupation business.

7. All off-site advertising, including signs, displays, billboards, television, radio, and/or any other advertising medium uses that refers to the street address is prohibited, other than business stationary, business cards, the home occupation business website,

newsletters and applicable trade directories.

8. No mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes. No combustible materials shall be permitted on the premises that are in violation of the city's fire code.

9. Any use permitted by right which use materially violates any of the above listed subsections herein may be required by the Planning Commission to secure a use by review approval pursuant to this section prior to continuing such home occupation or otherwise forfeit the right to continue such permitted home occupation.

10. No use involving a vehicle, boat or small engine repair, painting, welding or metal shop, restaurant, or child care facility for more than five (5) children shall be considered for a home occupation.

F. Special Requirements:

1. Area - Height and Setback Requirements. The height and setback requirements shall be the same as the Residential zone in which the permitted use is located.

2. Special Requirements - Parking areas must be surfaced or otherwise covered with a material which prevents dust. Any application subject to a use by review process shall have on-site parking issues specifically reviewed with appropriate requirements or conditions made, if any.

Section 12-276 Z-0 ZERO LOT-LINE DISTRICT OVERLAY

A. General Description. The Zero Lot-Line District is a supplemental district designation designed to facilitate development of high density single family housing in which houses may be located directly on one of the side lot lines. Designation of an area as a Zero Lot-Line District will be accomplished through the adoption of an overlay zoning district which amends and supersedes the applicable requirements set out in Section 12-263, Residential General (R-G) or Section 12-273, Residential Single Family (R-1) areas.

B. General Provisions

1. Intent and Purpose. The purpose of this overlay district is to permit the development of higher density housing, such that detached dwellings may, where permitted, be located in such a manner that an exterior sidewall is constructed with no setback from an interior property line as required in Section 12-263 and 12-273, but otherwise in conformance with such Section.

2. Conflicts and Interpretations. In the event any provision of this Section, or any district ordinance which is adopted pursuant to these regulations, conflicts with or is inconsistent in any manner with any other Section of the Zoning Ordinance, or any Section of the Municipal Code, the provision of this Section or the district ordinance shall supersede and take precedence over such portions or portion in conflict.

3. Designation Procedure.

a. Generally. An area shall be designated a Zero Lot-Line District in accordance with the minimum regulations set forth below:

(1) No windows, doors, or other openings are permitted in the zero setback sidewall.

(2) The side yard opposite the zero setback side on the same property shall be a minimum of ten (10) feet in width.

(3) A perpetual ten-foot easement for the purpose of building maintenance and separation between structures shall be provided on the lot adjacent to the exterior dwelling sidewall along the zero setback line provided that:

(4) The maintenance easement shall allow access to principal buildings and to any accessory structures or vegetation that do not otherwise have reasonable access to their full height and width along the zero setback side for the purpose of maintenance.

(5) Such easement must be shown on a subdivision plat, or otherwise recorded by an irrevocable covenant which shall run with the land, whereby proof of such recorded documents shall be submitted with applicable for a building permit for any structure to be so constructed.

(6) Roof overhangs from principal buildings may penetrate the easement on the adjacent lot a maximum of two (2) feet excluding gutter, but the roof shall be so designed that water runoff from the structure placed on the lot line is limited to the easement area.

(7) Spacing between structures shall be no less than ten (10) feet, measured from the outermost projections of combustible materials.

(8) If a driveway is to be located along the lot line, a note of waiver must be recorded on the plat, or permission otherwise obtained from the zoning officer, for a curb-cut turning radius encroachment on the frontage of the adjacent property.

b. Initiation procedure. Preliminary plat reviews with planning staff members are encouraged. Once the staff members have determined that an area meets the criteria for designation as a Zero Lot-Line District, a hearing shall be set where the Planning Commission will receive input and consider the proposed plat for the district. Public notice shall be provided to the same extent as notice for all re-zoning applications. Should the Cherokee Planning Commission fail to approve the proposed plat, the zero lot-line district designation process will not continue.

c. Adoption. The City Council may designate an area as a Zero Lot-Line District after meeting the following criteria:

i) Review: The overlay district shall be reviewed by the administrative staff and the Cherokee Planning Commission for compliance with this and other Section in the Municipal Code and comprehensive plan. Other matters which may be considered include, the effect of the proposed district on traffic conditions, utilities and other public services, and the impact on properties surrounding the areas proposed to be designated. The findings and recommendation of the administrative staff and Cherokee Planning Commission shall then be reported to the City Council. Upon required notice being given, the City Council shall review the application at a public hearing at which time they shall receive comments from interested parties and receive the recommendations of administrative staff and the Cherokee Planning Commission.

ii) Approval. The City Council may approve or deny the request for district designation. If approved, the district shall become a part of the comprehensive plan of the City and shall be shown on the Zoning Map as an overlay to the existing zoning.

iii) A drawing of the lot plan of such district is attached to this adopting ordinance and is incorporated herein by reference as if fully set out.

Section 12-280 C-O COMMERCIAL OFFICE DISTRICT.

A. GENERAL DESCRIPTION. The Commercial Office District is designed to accommodate administrative and professional offices and certain basic personal services which can occupy low rise buildings in low land use intensity areas. Emphasis is placed on aesthetic considerations such as landscaping, setbacks, sign control and restrictive building height. The district may serve as a buffer between more intensive land uses and low intensity residential districts. Outdoor storage of goods and merchandise is prohibited.

B. DISTRICT USE REGULATIONS. Uses Permitted

Property and buildings in the C-O Commercial District shall be used only for the following purposes:

1. Any use permitted in any Residential District.
2. Medical and dental offices, including clinics.
3. Office buildings for executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales, and non-profit corporations.
4. Publicly owned buildings, exchanges, and public utility offices, but not including electrical or gas substations.
5. Museums, cultural centers and open space designed to serve persons conducting business in this District.
6. Convalescent Home, Rest Home, Nursing Home and Hospitals, Public or Private.
7. Other uses which are in keeping with the general description of this District and are similar to the above uses.
8. Accessory uses customarily related to a permitted use authorized by this Section.

C. SITE DESIGN REQUIREMENTS. It is intended that building and parking areas be designed to protect, in so far as possible, the value and character of adjacent residential areas. In no case shall the design of a proposed site, provide less than the following standards:

1. Height. No building shall exceed twenty-five (25) feet in height, measured from the mean elevation of the lot.
2. Front yard setback, Ten (10) Feet.
3. Side yard setback; Interior Lot, Ten (10) Feet; Corner Lot Street Side, Fifteen (15) Feet; Corner Lot Interior Side, Ten (10) Feet; side adjacent to a residential district, Twenty-five (25) Feet, measured from the side property line abutting the residential district or development.
4. Rear yard setback, Twenty (20) Feet.
5. No Minimum Lot Area; Frontage, Fifty (50) Feet at the building line.

6. Screening and landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review).

7. Off-Street Parking, Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-228 (Off-street Parking Requirements).

8. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with the other design features of the site, and to conform with Chapter 12. Article 6 of the Cherokee Municipal Code, , entitled "Sign Regulations".

9. Site Plan. Prior to the issuance of a building permit for any permitted use, a site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-281 C-1 LIGHT COMMERCIAL ZONING DISTRICT.

A. GENERAL DESCRIPTION. The purpose of this commercial district is for the conduct of general and professional offices and a limited number of retail trade activities to provide for the needs and convenience of the people of adjacent residential areas and the community in such a manner as to not be offensive to a general neighborhood containing, residential, religious, recreational, and educational elements. It is intended that this district be located as not to introduce traffic into a solely residential district, but to serve as a buffer between residential and more intensive commercial activities.

B. DISTRICT USE REGULATIONS. Uses Permitted.

Property and buildings in the C-1 Light Commercial District shall be used only for the following purposes:

1. Any use permitted in the C-O District.
2. Accounting and insurance offices, banks, credit unions, savings and loan companies and associations, real estate offices, and other businesses which perform services on the premises.
3. Dry cleaning establishments or pick-up stations dealing directly with the consumer.
4. Generally recognized retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as but not limited to bakeries, or stores selling books, stationary, clothing, dairy products, delicatessens, dry

goods, florists, groceries, hardware, meat market, pharmacies, and self-service gas stations (no repair).

5. Personal service establishments which perform services such as but not limited to appliance and small items shops (watches, radio, television, shoe, etc.), beauty parlors or barber shops, dance schools, photographic, artists, and other miscellaneous studios, post offices, self-service laundries, tailor shops, and governmental office buildings serving persons living in adjacent residential areas.

6. Professional services, including medical clinics (out-patient only) and offices of doctors, dentists, osteopaths, and similar professions.

Uses Permitted by Review

The following uses may be permitted after review in accordance with Section 12-287C, D, E, F & G (Uses by Review).

1. Billiard parlors, pool halls.
2. Building, plumbing, electrical and mechanical contractor shops.
3. Business schools.
4. Car wash.
5. Ceramic shops.
6. Commercial greenhouses and garden supply shops.
7. Mortuary establishments.
8. Restaurants, cafes, or drive-in restaurants.
9. Service stations (excluding body repair work)
10. Public or private parking lots needed to accommodate any use permitted in the Commercial Zoning Districts.

Other uses which, in the opinion of the Planning Commission, are similar to the above uses and are in keeping with the general description of the zoning district and meet the three (3) standards as specified in Section 12-287D (Conditions for Authorization).

C. SITE DESIGN REQUIREMENTS.

For purposes of this District, the Site Design Requirements applicable to C-0 Commercial Office, and as set out in section, shall be applicable to this District as if fully set out herein. The regulations contained in section shall apply to any site proposed for development after the enactment of the zoning ordinance and re-codified Chapter 12.

Section 12-282 C-2 GENERAL COMMERCIAL ZONING DISTRICT.

A. GENERAL DESCRIPTION. This District is intended to provide for the normal range of commercial services within the community in such a manner that the District will accommodate both quick-stop and longer visit shopping, as well as provide for additional retail, cultural and entertainment trade. Additionally, District regulations are intended to minimize traffic congestion and noise, provide adequate and controlled parking and expansion area, allow safe pedestrian movement, minimize adverse impacts on residential areas, encourage improved commercial site design and layout, and promote the re-use and development of existing commercial structures and encourage visual quality in commercial development.

B. DISTRICT USE REGULATIONS. Property and buildings in the C-2 General Commercial District shall be used only for the following purposes:

1. Automobile assembling, painting, upholstering, rebuilding, reconditioning, and body work.
2. Automobile sales and service.
3. Bakery (Commercial or wholesale).
4. Banks, Savings and Loans, Finance Companies.
5. Bars and Taverns, private clubs.
6. Billiards and pool halls.
7. Bottling works.
8. Bowling alley.
9. Building plumbing, electrical, and mechanical contractor shop.
10. Business schools.
11. Bus station or service.

12. Car wash.
13. Clothing store.
14. Dancing school or studio.
15. Discount store.
16. Dry cleaners.
17. Feed and seed stores.
18. Florist or gift shops.
19. Food processing (retail on premises).
20. Furniture store.
21. Garages (service, storage or sales) for motor vehicles.
22. Glass fabrication and installation.
23. Grocery stores.
24. Hardware stores.
25. Itinerant merchant or transient vendor.
26. Jewelry store.
27. Kennel.
28. Laundry or dyeing establishment.
29. Manufacture of articles sold only at retail on the premises.
30. Medical facilities (hospitals and clinics).
31. Metal fabrication, light (sheet metal, ducts, gutters, and leaders).
32. Miniature golf course or commercial driving range.
33. Mini-storage, rental storage.
34. Mobile home sales.
35. Motel or hotel.

36. Movie theaters.
37. Music stores, studios.
38. Offices.
39. Optical and scientific instruments and jewelry manufacturing.
40. Pawnshops, Second-hand and auction stores.
41. Pet store.
42. Printing, lithographic or publishing company.
43. Public garages.
44. Public parking lots.
45. Radio and television broadcasting studios.
46. Recreational facilities (including swimming pool).
47. Restaurants, drive-in restaurants.
48. Service stations.
49. Shoe store and repair.
50. Small animal hospital.
51. Taxidermist.
52. Taxi service.
53. Television and radio repair shop.
54. Tourist courts (for travel, camp trailers)
55. Transfer and storage offices.
56. Upholstering shops.
57. Weaving apparels (fabrication and processing).
58. Wholesale sales office and sample room.
59. Any use permitted by right in a C-1 or C-0 district.

Uses Permitted by Review.

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287 B, C, D, E, F & G (Use by Review.)

1. Commercial warehouse, provided that the gross floor area of such warehouse shall not exceed forty percent (40%) of the total tract, lot, or parcel of land on which it is situated.

2. Any other similar business or service which is in keeping with the general description and meets the three standards as specified in Section 12-287D (Conditions for Authorization).

3. Public and private utility or contractor equipment and material storage and maintenance yards or buildings, provided that any stored material or equipment shall be within a building or enclosed by a six (6) foot high fence or suitable landscaping to screen the materials or equipment from the view of the adjacent public streets, parks, recreation areas and residential properties.

4. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this District.

C. SITE DESIGN REQUIREMENTS. The following minimum requirements shall in a C-2 General Commercial Zoning District:

1. No minimum lot area and width.

2. Height. No building shall exceed twenty-five feet (25') in height, measured from the mean elevation of the lot.

3. A twenty-five feet (25') setback.

4. No side yard setbacks, except for sides adjacent to residential properties, in which case the setback shall be twenty-five feet (25'), and except when any side of the subject lot faces a street, in which case the setback from the street shall be twenty-five feet (25').

5. No Rear yard setbacks, except for when the rear yard is adjacent to residential properties, in which case the setback shall be ten feet (10').

6. Screening and Landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review.)

7. Off-Street Parking, Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-229 (Parking Space Requirements).

8. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with Chapter 12, Article 6 of the Cherokee Municipal Code, entitled "Sign Regulations".

9. Site Plan. Prior to the issuance of a Building Permit for any permitted use, a Site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-283 C-3 COMMERCIAL BUSINESS DISTRICT.

A. GENERAL DESCRIPTION. This District is designed to be the Central Business District or the downtown shopping and employment area for the community and surrounding area. This District is intended to provide space for retailing of all kinds, professional offices, financial institutions, upper level apartment dwellings, hotels and limited wholesaling, conducive to a high volume of pedestrian traffic.

B. DISTRICT USE REGULATIONS. Permitted Uses.

Any use permitted in C-2 General Commercial District.

Use by Review

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287 B, C, D, E, F & G (Use by Review).

1. Light manufacturing.
2. Warehouses, general.

C. AREA REGULATIONS.

1. No minimum lot area or width.
2. No front yard setbacks.

3. No side yard setbacks, except for any side adjacent to a Residential District.

4. Height. Maximum Twenty-five (25) feet.

5. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with Chapter 12. Article 6 of the Cherokee Municipal Code entitled "Sign Regulations".

Section 12-284 RESERVED

Section 12-285 RESERVED

Section 12-286 SITE PLAN REVIEW.

A. PURPOSE. By reason of potential adverse effect on public service, community appearance, environment, welfare, and to neighboring land uses, Site Plan Review and approval shall be required of development. For the purpose of assuring proper accessibility, circulation, functional relationships of use, and compatibility with adjoining and nearby development, no Building or Occupancy Permit shall be issued, nor use commenced, except in accordance with a Site Plan submitted and approved by the City.

B. INTENT. The Site Plan Review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site, are, because of their nature, size, complexity, or other indicators of probable impact, capable of adversely affecting the purposes for which these regulations are established, unless careful consideration has been given to critical design elements. Therefore, it is the intent of this process to ensure that all elements are reviewed for compatibility with the provisions of these regulations. A Site Plan, much like a preliminary plat of subdivision, is intended to serve as a working document for the developer and the City. It shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

C. APPLICABILITY. Site Plan Review shall be required, as a precondition to the issuance of a Building or Occupancy Permit, in the following instance:

The development or establishment of any commercial or special use.

D. RESERVED.

E. DESIGN STANDARDS. The following design standards shall apply to any development requiring Site Plan Review:

1. Access. All developments requiring Site Plan Review shall have adequate and safe vehicular access to adjacent streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow so as to afford minimum conflict to

traffic on public streets. All such entrances and exits shall be so located and designed so as to comply with the Traffic Control Policies of the City and in the case of State Highways, with the Oklahoma State Highway Commission's Driveway Regulations for Oklahoma Highways.

2. Drainage. Proper surface drainage shall be provided so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and will, so far as practicable, avoid flooding, erosion, and detrimental depositing of silt, gravel or stone. Surface water shall be removed from all roofs, canopies and paved areas and disposed of in an appropriate drainage system. Surface water in all paved areas shall be disposed of in a manner approved by the Street Commissioner.

3. Landscaping. Landscaping shall be included as an integral part of the development to provide a quality of life and amenities in keeping with the natural physical surroundings of the City. All developments shall be landscaped with trees, ornamental shrubs and green areas according to the following standards:

a. No less than five percent (5%) of the total land area of the development shall be landscaped with trees, ornamental shrubs, walkways, and green areas. At least seventy-five percent of this area shall be in the front or side yards.

b. All Site Plans shall include a detailed landscaping plan indicating the type and number of plants to be provided.

c. Artificial grass or any form of synthetic plant shall not be permitted as landscaping.

d. The use of gravel as ground cover shall not be considered as meeting the minimum requirements of this Section.

e. The plan shall not interfere with sight triangles at intersections.

f. A Certificate of Occupancy shall not be issued until landscaping has been installed in accordance with the approved Site Plan. If the season of the year will not permit planting, a temporary Certificate of Occupancy shall be issued until growing season. Failure to plant landscaping shall be a violation of these regulations.

g. All landscaping improvements shall at all times be maintained in a live and healthy manner.

h. The Planning Commission and the City Council may require that

existing landscaping and vegetation on the site be retained in order to satisfy the requirements of this Section.

4. Lighting. All lighting in parking areas, as part of signs and advertising or special lighting, shall be so arranged to avoid unreasonable reflection, glare, or radiation onto operators of motor vehicles, pedestrians, and neighboring land uses or properties. Outdoor lighting when provided, shall have an arrangement of reflectors and an intensity which will not interfere with adjacent land uses or the use of adjacent streets. No flickering, moving or flashing lights shall be permitted.

5. Parking. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation (See 12-231). The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provisions shall be made for access by police, fire and emergency vehicles.

a. All parking lots containing more than 10 spaces must have a minimum five (5) foot landscaped strip adjacent to their perimeters with shade trees planted in the amount equivalent to one shade tree for every thirty-five (35) feet of the perimeter lineal footage. On parking lot perimeters adjacent to residentially zoned or developed land, the landscaped strip shall contain 75% opaque screening which shall include a solid wall, fence or compact evergreen hedge not less than five (5) feet in height. In addition, unenclosed parking lots with more than twenty (20) spaces shall have a minimum of two percent (2%) of the interior surface area landscaped and shall have a permanent underground watering system. The interior landscaping shall be in planting islands at aisle ends or strips between aisles. Where planting will be susceptible to injury by pedestrians or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices. The landscaping requirements herein can be amended or waived in certain circumstances to provide for overflow parking when necessary to better serve the interests of the business and the public. For purpose of this section, the term "overflow parking" shall mean parking spaces and areas in excess of that required by this code.

b. Surfacing. Except as otherwise provided herein, all property used for parking of vehicles, storage and display of merchandise, and all driveways used for vehicle ingress and egress shall be paved with a hard surface (See Section 12-231).

c. Alternate Pavement Systems. An alternate pavement system may be substituted for concrete or asphalt for the construction of overflow parking of vehicles, storage and display of merchandise, and other locations where vehicles will drive, turn and exit or park, provided the design and construction of such paving system meets the following performance standards

Rock or gravel paving systems which does not allow the water to permeate into the subsurface directly below the paving system.

MATERIALS. Aggregate shall conform to the applicable requirements of ASTM D 1241 or, if so specified, shall be obtained from designated sources. The aggregate material shall be free from vegetable matter and other deleterious sources. The surface course shall meet the requirement of ASTM D 1241 for Type I with Gradation C or any other gradation, which will grade within the following limits:

Sieve Size	Percent Passing by Weight
¾"	100
No. 4	38-65
No. 8	25-60
No. 30	10-40
No. 200	3-12

DRIVEWAYS. Driveways shall meet the following requirements:

When tested in accordance with ASTM D 4318, the plasticity index shall not be more than five.

When tested in accordance with ASTM D 4318, the liquid limit shall not be more than 25 percent.

Driveways to be surfaced including the drainage ditches shall be scarified minimally to the top 6 inches of the road bases and mixed with water to within plus or minus 1% optimum moisture and compacted as necessary to provide density of road base matrix not less than 95% maximum Proctor density (ASTM-698).

The road surface coarse material shall be compacted as necessary to provide density of the road gravel surface matrix not less than 95% maximum Proctor density (ASTM-698).

BASE PREPARATION. The area to be surfaced shall be compacted as specified. The surface shall be inspected and approved by the City's engineer before an aggregate surfacing material is placed.

PLACEMENT. The aggregate shall be deposited, spread, processed and

compacted on the prepared subgrade to the required thickness as designated by the City Engineer. Minimum thickness of the rock or aggregate layer shall be six inches. In the event segregation occurs, the material shall be bladed until the various sizes of aggregate are uniformly and satisfactory blended. After being spread, the material shall be watered, mixed and shaped to the required section, and compacted as specified. The completed course shall be smooth, true to grade and cross-section and free from ruts, humps, depressions and irregularities.

DRAINAGE. Low drainage channels shall be provided to carry the water to proper and adequate drainage to a designated storm water collection area or conveyance system. Such paving system shall also be designed to direct and/or convey water flow away from a structure.

CROSS-SECTION. The cross-section as provided shall be followed if required by the City Engineer.

CULVERTS. Culverts may be required to be placed in such location(s) as specified by the City.

The approach shall be a minimum of twelve feet (12') in width, six inches (6") in depth, and constructed of concrete.

Rock or gravel paving systems which allow the water to permeate into the subsurface directly below the paving system (hereinafter referred to as permeable pavement system").

Such paving system is installed in a manner that prevents water from standing for longer than forty-eight (48) hours in, on, or below the pavement following a rainfall event.

Such paving system is installed in a manner which allows for proper and adequate drainage to a designated storm water collection area or conveyance system.

Such paving system is designed to direct and/or convey water flow away from a structure.

Innovative or specialized permeable pavement systems may be utilized provided the design and construction thereof strictly adheres to the manufacturer's specifications for installation and use. Such specifications and/or drawings shall be submitted to the City of Cherokee for review and approval prior to start of construction.

Design and construction of such permeable paving systems shall conform to all other requirements of the City Code or Standards, including the following standards:

The approach shall be a minimum of twelve feet (12') in width, six inches (6") in depth, and constructed of concrete.

Mirafi Fabric No. #RS380i or an equivalent liner shall be placed from the back of the concrete approach to the edge of any area covered by the aggregate.

Permeable pavement is asphalt or concrete of a type permitted by the City Engineer shall be mixed with fewer fine particles to create more air space which allows water to permeate through it. An underlying layer of fine sediment shall be placed and below it a bed of uniform-grade stones that shall store the water as it infiltrates into the ground. The thickness of each material shall be certified by an engineer or approved by the City Engineer.

As much of the soil in the City is hard clay and does not permit the infiltration of water through it, an appropriate soil test and certification from a licensed engineer shall be required for the installation of a permeable pavement system.

The decision whether to permit an alternate pavement system for overflow parking areas shall be based on its intended location, utility, aesthetic considerations, surrounding uses and such other factors as the Planning Commission and City Council deem appropriate. No alternative pavement system may be used on an approach to or from any property, which approach shall be in concrete.

Provisions applicable to both types of alternative paving systems:

No owner or person in lawful possession of the property upon which either of the alternate paving systems are used shall permit rock or other aggregate from being carried out into the street from the property. In the event such occurs, the owner or person in lawful possession of the property shall immediately remedy the occurrence or shall be subject to a fine and costs.

6. Relation of proposed structures to environment. Proposed structures on the site shall be related in style and design and shall also relate visually to the terrain and existing buildings and roads in the vicinity. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Proposed structures shall be so cited as to minimize any adverse impact upon the surrounding area, and particularly upon nearby residences, by reason of:

- a. Building location, height, bulk and shadows;

- b. Location, intensity, direction and time usage of outdoor lighting;
- c. Likelihood of nuisances;
- d. Other similar considerations.

Appropriate screening shall be required to minimize any such adverse impact.

7. Screening. Development and maintenance of plantings, fences, and walls shall be provided as an aesthetic barrier against traffic, noise, heat, glare, and dust for the protection and conservation of property. Whenever any lot located in any commercial zone is to be developed or occupied by commercial uses(s) and it abuts a lot located in any residential zone or a lot developed residentially, the lot shall be screened by the development with a minimum 75% opaque barrier not less than 5 feet in height along the entire abutting lot line. Said screening or barrier shall be dense landscaping, earthen berm, solid lumber or masonry fence, wall, or combination thereof. Solid lumber fencing shall be treated or painted in earth tone colors. More extensive screening may be required by the Planning Commission and City Council in instances where the above-described screening does not adequately protect adjacent properties from unsightly or distractive activity. The screening shall be maintained in good condition. Prescribed screening need not be provided along a lot line if a building, fence, wall or dense landscaping of at least equivalent height, capacity, and maintenance exists immediately abutting on the opposite side of said lot line. In addition, the Planning Commission and the City Council may require that existing landscaping and vegetation on the site which serves a partial or full screening be retained in order to satisfy the requirements of this Section.

8. Special Features. Outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

9. Waste disposal. All containers for the disposal of wastes can be required to be located on a concrete pad and shall be screened to the extent that the container cannot be viewed by the public.

10. Public Rights-of-Way, Streets and Easements. Each Site Plan shall provide for the appropriate dedication and improvement of needed rights-of-way and easements as are necessary to adequately serve the

proposed development and occupancy, and the minimum design standards of the City.

F. PRE-APPLICATION REVIEW. Prior to submission of a Site Plan, the applicant should discuss with the Zoning Officer the procedure and the requirements of the general layout of the site, utilities, access to arterials, general design and narrative, the availability of existing services, and similar matters. The intent of the pre-application review is to expedite the Site Plan Review process and to facilitate the approval of the Development.

G. SITE PLAN PREPARATION.

1. Site Plans or any portion thereof involving Public Engineering improvements shall be certified by a Professional Engineer registered in the State of Oklahoma.

2. Every Site Plan shall include a Boundary Survey completed and certified by a land surveyor licensed by the State of Oklahoma.

3. Site Plans shall be prepared to a scale of one-inch equals fifty feet or larger.

4. A Site Plan shall be prepared on one or more sheets to show clearly the information required by these regulations and to facilitate the review and approval of the plan. If appropriate, match lines shall clearly indicate where sheets join.

5. Site Plans shall be submitted in three (3) clearly legible blue or black line copies and shall also include any supportive maps or data as may be required.

6. The Site Plan must, at the time of submittal, be accompanied by the completed application form. The filing fee for Site Plan Review shall be twenty-five dollars (\$25.00). An application for the approval of a Site Plan may be processed simultaneously with and contingent upon, the approval of, an application for a zoning amendment.

H. CONTENTS OF THE SITE PLAN.

1. All Site Plans shall contain the following information:

a. Location of the tract, with references to names of adjoining streets, streams, bodies of water, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.

b. The name, address and telephone of the owner or developer, north arrow, date, scale of drawing, and number of sheets.

- c. Boundary dimensions and references as indicated by survey.
- d. Existing topography, with a maximum contour interval of two (2) feet, if required by the Zoning Officer.
- e. All existing and proposed streets, pedestrian circulation systems, utilities and easements, indicating their name, type and dimensions and the location of all private utility service lines and connections to public utilities.
- f. Zoning of all adjacent properties.
- g. The delineation of any flood hazard areas and drainage features as defined by the Federal Insurance Administration.
- h. Location, type and dimensions of vehicular entrances to the site.
- i. All off-street parking and loading areas in accordance with off-street parking regulations as specified in this Code.
- j. The proposed location, use, number of floors, height and gross floor area for each building; any outside display areas; signs and lighting. Elevation drawings shall be submitted for all signs and buildings.
- k. Location, type, size and height of fencing, retaining walls, screening, plantings, or landscaping. Elevation drawings shall be submitted for all screen planting and fencing.
- l. Provisions for the adequate disposition of natural storm water in accordance with the adopted design criteria, standards, and ordinances of the City indicating the location, size, type and grade of ditches, catch basins and dips, and connections to existing drainage systems and on-site storm water detention systems.
- m. Proposed finished grading by contours of two (2) feet supplemented where necessary by spot elevation if required by the Zoning Officer.

I. SITE PLAN SUBMISSION AND REVIEW. Plans for Development on Property.

- 1. All Site Plans shall be reviewed and approved by the Planning Commission prior to the issuance of any Building Permit or Occupancy Permit for the property.

2. The Site Plan shall be submitted to the Zoning Officer no later than 10 days prior to the Planning Commission meeting date at which it is to be considered.

3. The Zoning Officer shall review the Site Plan for completeness and compliance with the provisions of these regulations. Any necessary modifications shall be forwarded to the applicant for resubmittal.

4. After review, the Zoning Officer shall provide to the Planning Commission, a written report recommending and listing reasons for the approval or denial of the Site Plan.

5. The Planning Commission shall conduct a public hearing regarding the proposed Site Plan and shall consider:

a. Whether the proposed Site Plan is consistent with the Land Use Plan.

b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas.

c. Whether provisions have been made for proper accessibility, circulation and functional relationships of land uses.

d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations.

6. The Planning Commission may take the following actions:

a. Approval. If the Site Plan is recommended for approval, the developer may make application for permits in compliance with the approved Site Plan.

b. Conditional approval. The Planning Commission may recommend conditional approval of the Site Plan subject to any necessary amendments.

c. Denial. If the Site Plan is recommended for denial, the reasons for such shall be recorded in the minutes of the Planning Commission meeting. The reasons for denial shall refer to specific provisions of these regulations which the Site Plan does not conform.

7. The recommendation of the Planning Commission shall be referred to the City Council for final action.

8. The City Council shall approve, conditionally approve or deny the Site Plan. In the case of any action other than approval, the City Council shall state the reasons for its action. As a condition of

approval, the City Council may require certain on-site and off-site improvements to be installed.

J. RESERVED.

K. PUBLIC NOTICE

1. After the Zoning Officer receives an application for Site Plan Review, the subject property shall be posted with a notice or notices which shall describe the development being proposed and the time and place in which the application may be viewed by any interested person.

2. Said Notice shall be posted no later than ten (10) days prior to the hearing before the Planning Commission. The subject property shall remain posted until a final decision has been made concerning the application.

Upon approval of the Site Plan, building permits may be issued in accordance with the provisions of the approved Site Plan.

L. AMENDMENTS. Minor changes to the Site Plan may be accomplished administratively through the Zoning Officer so long as substantial compliance is maintained with the approved Site Plan. Proposed changes which could represent a significant departure from the Site Plan, as approved by the Planning Commission or City Council, shall require resubmittal. Major changes to an approved Site Plan which would require resubmittal shall include but not be limited to, an increase in the bulk of any building by more than five percent (5%), and increase in residential density, or an increase in total ground area covered by buildings by more than five percent (5%).

M. OCCUPANCY PERMIT. Prior to the issuance of any Certificate of Occupancy, the applicant shall complete in a manner satisfactory to the Zoning Officer, all improvements required by these regulations and as required by the City Council.

N. EXCEPTIONS: The foregoing Site Plan Procedure shall not apply to:

1. New occupancies of existing structures in the "C-3" Central Business District.

2. Any use permitted on a temporary basis for a period of not to exceed six (6) months.

3. Attached or unattached additions to existing non-residential buildings or uses; provided however, such additions must not change the character of the use or cause or extend a nuisance or nonconformity and must otherwise conform to the appropriate city ordinances.

Section 12-287 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY.

A. BUILDING PERMIT. The provisions respecting buildings permits are provided in Section 5-106 of this Code.

B. Certificate of Occupancy.

1. No vacant land shall be occupied or used except for agricultural uses, and no building erected or structurally altered shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.

2. Certificate of Occupancy for the use of vacant land or to change any use thereof shall be applied for before any such land shall be occupied or used and a Certificate of Occupancy shall be issued within three (3) days after application has been made provided that the use is in conformity with the provisions of the ordinances of the City.

3. The Certificate of Occupancy for the use of the building shall be as provided by the Building Code of the City.

4. No fee shall be charged for the original Certificate of Occupancy issued in connection with construction of a building. For all other certificates or copies of any original there shall be a charge of five dollars (\$5.00) each.

5. No permit for excavation for any building shall be issued before application has been made therefore.

C. USES BY REVIEW. The development and administration of a Zoning Ordinance is based upon the division of the City into Zone Districts within which Districts the use of land and buildings and the bulk and position of buildings and structures in relation to the land are relatively uniform. It is recognized, however, that there are occasions when in addition to the principal permitted uses, other uses, hereinafter referred to as "USES BY REVIEW", because of their unique characteristics and because of the uniqueness of their proposed location, may be allowed after careful consideration of the impact of the particular uses upon the neighborhood and the public facilities thereon.

D. AUTHORIZATION. The City Council may grant a use that is listed under the Uses by Review in a particular zone or as otherwise provided

for after recommendation and at least one public hearing by the Planning Commission. The subject property will be required to be posted twenty (20) days prior to the public hearing. In addition, prior to the hearing, a written notice shall be mailed to all owners of real property located within a three hundred (300) foot radius of the exterior boundary of the property proposed for the use by review. The applicant shall, at his own cost, provide the City with a certified list of property owners from an abstractor, together with a copy of any restrictive covenants that are applicable to the tract which is the subject of the use by review. The mailed and posted notices shall contain the:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning of the property and use by review sought by the applicant; and
3. Date, time and place of the public hearing.

E. CONDITIONS FOR AUTHORIZATION. No Use by Review shall be granted by the City Council until the Planning Commission first finds:

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the Use by Review are not substantially injured.
2. Intent of General Description: That the Use by Review is consistent with the intent and purpose of the particular zone to promote public health, safety and general welfare.
3. Land Use Plan: That the Use by Review is in keeping with the Land Use Plan of the City.

F. APPLICATION. An application for a Use by Review shall be filed with the Zoning Officer. Any evidence as may be necessary to enable the Planning Commission and City Council to properly consider the request should accompany the application. The applicant for a Use by Review shall pay a fee in the same amount as the re-zoning application fee (Chapter 18, Section 12-311).

G. RESTRICTION FOR HOME OCCUPATION. The approval of a Use by Review for a home occupation is intended to be for the existing land owner only. Any transfer of ownership after the home occupation is approved nullifies the particular approved use.

Section 12-289 I-1 INDUSTRIAL (LIGHT).

1. GENERAL DESCRIPTION

This Industrial District is intended primarily for the activity of light manufacturing, assembling, and fabrication and for some warehousing, wholesale and service uses. These do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air or street transportation routes.

2. PERMITTED USES

Uses Permitted in I-1 Light Industrial District

Property and buildings in an I-1 Light Industrial District shall be used only for the following purposes:

A. Except as otherwise provided, no dwelling use, except sleeping facilities required by caretakers or night-watchman employed on the premises, shall be permitted in an I-1 light industrial district. Dwelling uses shall be permitted within conventionally constructed housing, mobile homes, manufactured homes (including portable bunk houses) or similar residential structures located on the premises, provided such dwelling use shall only be made by persons who work for the business or industry (or related entity) and such dwelling use shall only be permitted if an approved permit providing for such dwelling use is issued by majority vote of the City Council. Such annual permit may contain conditions relating to such dwelling use, including but not limited to the number of permitted structures, spacing, fencing and other matters directly relating to the health, safety and welfare of the residents of the City of Cherokee. Failure to adhere to such conditions may result in a termination of such permit or failure to renew such permit in any subsequent year.

B. Building material sales yard and lumber yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, but not including a concrete batch plant or transit mix plant.

C. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

D. Freighting or trucking yard or terminal.

E. Oilfield equipment storage yard.

F. Public Utility service yard or electrical receiving or transforming station.

G. Sale barn.

H. No article or material permitted in this District shall be kept stored or displayed outside the confines of a building when abutting a residential zone or residential development, unless it be so screened by fences, walls or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

The following uses when conducted within a completely enclosed building:

I. The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

J. The manufacture, compounding, assembly or treatment of articles of merchandise from the following previously prepared materials: Bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stone, shell textiles, tobacco, wood, yard, and paint not employing a boiling process.

K. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

L. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilation ducts, and equipment, cornices, eaves and the like.

M. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.

N. Truck repair and overhauling, tire retreading or recapping and battery manufacturing.

O. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers, and automatic screw machines.

P. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.

Q. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers and the like.

The use permitted under this Section shall be conducted in such a manner that any noxious odor, fumes or dust generated beyond the property line of the lot on which the use is located will do so only with compliance with all City, State and Federal pollution regulations.

3. USES BY REVIEW:

a. Any other similar business or service which is in keeping with the general description and meets the three (3) standards as described in Section 12-287 B, C, D, E, F & G (Use by Review).

b. Salvage yards, provided the property can be used in compliance with ordinances licensing salvage yards.

4. AREA REGULATIONS:

A. Front Yard Set-Back:

Adjacent to State or Federal Highway - forty feet.

Adjacent to a principal arterial - thirty feet.

Adjacent to a minor arterial or a section line road - twenty-five feet.

Adjacent to any public road or street other than a Federal, State or County Highway and principal arterial - twenty-five feet.

B. Side Yard Set-Back - None.

C. Rear Yard Set-Back - None unless abutting a Federal, State, a County Highway, or arterial street, or residential zone or development in which case the setback shall be forty (40) feet.

5. HEIGHT REGULATIONS

No building shall exceed three and one-half (3 ½) stories or forty-five (45) feet in height.

6. SIGNS AND BILLBOARDS

All signs and billboards in the I-1 district shall conform to the requirements in Chapter 12, Article 6 of the Cherokee Municipal Code, entitled "Sign Regulations".

Section 12-290 I-2 INDUSTRIAL (HEAVY)

1. GENERAL DESCRIPTION

This Industrial District is generally intended to provide for heavy industrial uses as well as other uses not otherwise provided for in the

districts established by these regulations. The intensity of uses permitted in this district makes it desirable that they be located in an area separated from residential and commercial uses.

2. PERMITTED USES:

Property and buildings in an I-2 Heavy Industrial District maybe used for any use except the following:

A. All residential uses except sleeping facilities required by night watchmen and caretakers employed upon the premises.

B. All uses not complying with these regulations or any other City, County, State or Federal Regulation or law.

C. All of the following uses until they have been studied by the Planning Commission and have received the express approval of the City Council. The Planning Commission may require approval of the County Health Department, the State Fire Marshal and other State and County regulating agencies and may attach to the approval specific restrictions designed to protect the Public Welfare.

1. Acid Manufacture.
2. Cement, lime, gypsum or plaster of paris manufacture.
3. Explosives, manufacture or wholesale (liquid explosive) storage.
4. Gas manufacture.
5. Grain elevator and storage.
6. Petroleum or its products, refining of.
7. Wholesale or bulk storage of gasoline, propane, butane or other petroleum.
8. Salvage yards, unless authorized by review under Section 12-287 B, C, D, E, F & G (Use by Review), herein as to property which can comply with the requirements of licensing ordinances for salvage yards.

D. AREA REGULATIONS:

1. Front Yard Set-Back - same as I-1
2. Side Yard Set-Back - none.

3. Rear Yard Set-Back - none.

E. HEIGHT REGULATIONS:

None

F. SIGNS AND BILLBOARDS

All signs and billboards in the I-2 district shall conform to the requirements Chapter 12, Article 6 of the Cherokee Municipal Code entitled "Sign Regulations".

Section 12-291 STANDARDS.

A. Any use, constructed, established, altered, or enlarged in the I-2 industrial district after the effective date of this chapter shall be so operated as to comply with the following standards:

1. No building shall be used for residential purposes, except that a watchman may reside on the premises.

2. No retail sales or services shall be permitted except as incidental to or accessory to a permitted use.

3. No noise either continuous or intermittent from any operation conducted on the premises, other than that emanating from vehicular traffic, shall be detectable at any boundary line of the I-2 district;

4. No toxic matter, noxious matter, smoke, gas, or odorous or particulate matter shall be emitted that is detectable beyond the lot lines of the lot on which the use is located;

5. No vibrations shall be detectable beyond the lot lines of the lot on which the use is located;

6. Exterior lighting fixtures shall be shaded wheresoever necessary to avoid casting direct light upon property located in any residential district;

7. The manufacture of flammable materials which produce explosive vapors or gases is prohibited;

8. No outside storage of equipment or material, except equipment for daily use, shall be permitted in such a location where it can be viewed from any public street; or

9. Any operation that produces intense glare or heat shall be performed within a completely enclosed building and exposed sources of light shall be screened so as not to be detectable beyond the lot lines.

Section 12-292 USES PERMITTED.

A. Within the I-2 industrial district, the following uses are permitted:

1. Building material sales;
2. Commercial radio and television transmitting antenna towers and other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages;
3. Compounding, processing and blending of chemical products, but not including any materials which decompose by detonation;
4. General and administrative offices;
5. Machine shops and metal products manufacture and tool and die shops;
6. Mail-order houses.
7. Manufacturing and assembling (or any combination of such processes) of products from wood, cork, glass, leather, iron, steel, fur, plastic, felt, and other textiles;
8. Manufacturing and assembling of electrical and electronic products and equipment.
9. Printing and binding plants;
10. Research laboratories;
11. Warehouse and storage facilities;
12. Water filtration plants, pumping stations, reservoirs, and lift stations;
13. Any other manufacturing process or establishment;
14. Accessory uses incidental to and on the same zoning lot as a principal use;
15. Any of the following uses:

- a. Blacksmiths, tinsmiths, and sheet metal shops;
- b. Bottling works;
- c. Canning or preserving factories;
- d. Cold storage plants;
- e. Ice cream production and distribution;
- f. Laundry and dry-cleaning plants;
- g. Machinery rental, sales and service;
- h. Machine shops;
- i. Manufacturing, fabricating, assembling, repairing, storing and cleaning, servicing, or testing of any of the following materials, goods or merchandise:
 - (1) Apparel;
 - (2) Automobile wrecking and junk yards, provided they are enclosed throughout the entire perimeter by a solid fence not less than eight (8) feet in height;
 - (3) Beverages (nonalcoholic), processing and bottling;
 - (4) Building materials specialties;
 - (5) Bulk fuel sales and storage;
 - (6) Clothing;
 - (7) Compounding and packaging of chemicals;
 - (8) Cosmetics and toiletries;
 - (9) Dairy products;
 - (10) Drugs and pharmaceutical products;
 - (11) Electrical and acoustical products and components;
 - (12) Food products (except fish, sauerkraut, vinegar and yeast);
 - (13) Furniture;
 - (14) Glass products;
 - (15) Ice, dry and natural;
 - (16) Jewelry;
 - (17) Medical laboratory supplies, equipment and specialties;
 - (18) Metal products and utensils;
 - (19) Milk, bottling and distribution;
 - (20) Monumental stone cutting;
 - (21) Motor freight terminals;
 - (22) Musical instruments;
 - (23) Optical goods;
 - (24) Paper products, including boxes and containers;
 - (25) Pattern shops;
 - (26) Processing of meat and vegetable products, including the slaughter of animals;
 - (27) Radios, phonographs, recorders, and television sets and parts;
 - (28) Railroad yards and switching areas, including lodging and sleeping facilities for transient railroad labor;
 - (29) Sign painting;
 - (30) Soldering and welding shops;
 - (31) Spray painting and mixing;
 - (32) Textiles;

- (33) Toys and children's vehicles;
- (34) Trailers and carts; and
- (35) Wood products, including wooden boxes and containers.

Section 12-293 AREA AND HEIGHT REGULATIONS.

Minimum Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
None	None	90%	None	25'	25'	25'

A. There are no area requirements in an I-2 district.

B. There are no lot frontage requirements in an I-2 district.

C. Not more than ninety percent (90%) of the lot area shall be covered with improvements. Paved areas are not considered as improvements within the meaning of this provision.

D. There are no height requirements in an I-2 district.

E. No structure shall be erected, commenced or maintained which has a front yard of less than twenty-five (25) feet.

F. No structure shall be erected, commenced or maintained which has a front yard of less than twenty-five (25) feet.

G. No structure shall be erected, commenced or maintained which has a rear yard of less than twenty-five (25) feet.

Section 12-294 SIGNS AND BILLBOARDS.

All signs and billboards in the I-2 district shall conform to the requirements in the sign ordinance.

SECTION 12-295 SU SPECIAL USE

A. GENERAL DESCRIPTION. This District is intended for those uses not otherwise specifically covered by the other districts. The primary purpose is for public and quasi-public uses.

B. DISTRICT USE REGULATIONS.

1. Uses Permitted:

Property and buildings in the SU Special Use District shall be used only for the following purposes:

a. Public and private schools and colleges not to include day-care centers.

b. Any uses accessory to schools and colleges that are owned and/or controlled by said schools or colleges, including one, two-family, and multi-family dwellings.

c. County clubs.

d. Golf course (public or private)

e. Hospitals, clinics, and medical or dental offices surrounding and in direct relationship to the hospital or clinic.

f. Libraries, archives, and museums publicly or privately owned.

g. Federal, State and City owned property.

2. Uses Permitting by Review:

The following uses may be permitted after review in accordance with Section 12-287 C, D, E and F (Uses by Review).

Other uses which, in the opinion of the Cherokee Planning Commission, are similar to the above uses and are in keeping with the general description of the zoning district and meet the conditions for authorization as specified in Section 12-287 C, D, E and F (Uses by Review).

3. Site Design Requirements.

The following regulations shall apply to any site proposed for development after the adoption of the zoning ordinance and recodification of Chapter 12. For purpose of this subsection, "proposed development" shall mean the formal submission of a Site Development Plan in compliance with Section 12-286 (Site Plan Review).

a. Area. No minimum lot area and width.

b. Height. No building or structure shall exceed Forty-five (45) feet in height, measured from the mean elevation of the lot.

c. Front Yard Setback. The minimum front yard setback shall be twenty-five (25) feet.

d. Side yard Setback. The minimum side yard setback shall be as follows:

Zero (0) feet, unless the lot abuts a residential district or development, in which case the setback shall be ten (10) feet, measured from the side property line abutting the residential district or development.

e. Rear yard. The minimum depth of the rear yard shall be as follows:

Zero (0) feet, unless the lot abuts a residential district or development, in which case the setback shall be ten (10) feet, measured from the rear property line abutting the residential district or development.

f. Screening and Landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review)

g. Off-Street Parking. Access. All permitted uses shall contain adequate space to provide for parking, loading and maneuvering of vehicles in accordance with Section 12-228 (Parking Space Requirements).

h. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with the other design features of the site and shall conform with Section 12-285 (Sign Regulations.)

i. Site Plan. Prior to the issuance of a Building Permit for any permitted use, a Site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

ARTICLE 3

DIVISION 1

ENFORCEMENT AND ADMINISTRATION

Section 12-301 DUTY OF ZONING ADMINISTRATOR.

It shall be the duty of the zoning administrator to enforce this chapter. If the zoning administrator shall find that any of the provisions of this chapter are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, and shall take such other action as is authorized by law to ensure compliance with or to prevent violation of its provisions.

Section 12-302 ZONING CLEARANCE PERMIT PURPOSE.

The zoning clearance permit is a permit issued by the zoning administrator which states that a particular development meets all of the requirements of the zoning chapter. It is not a building permit and does not authorize construction; it certifies that the land or structure is in conformance with the terms of this zoning chapter.

Section 12-303 NEW CONSTRUCTION.

No building or other structure shall be erected, moved, constructed, enlarged or altered in such manner as to prolong the life of the building nor shall the use of any land or building or other structure be changed without a zoning clearance permit being issued authorizing such construction, alteration, erection, moving, or enlargement, or use changes as being in compliance with the provisions of this chapter. No building permit shall be issued for any new construction not conforming to a valid zoning clearance permit.

Section 12-304 CHANGE IN USE OF LAND OR BUILDING.

No change shall be made in the use of any land or building or structure after the passage of this chapter until a zoning clearance permit has been obtained, certifying that all the provisions of this chapter have been complied with.

Section 12-305 APPLICATION.

An application for a zoning clearance permit shall be made to the zoning administrator by the owner or proposed occupant of the building or land to be occupied or used, and the application shall state the location and legal description of the property and set out in detail the character and nature of the use to be conducted thereon. Within three (3) days, the zoning administrator shall grant or deny the zoning clearance permit in accordance with the terms of this Section.

Section 12-306 ACCOMPANYING MATERIAL.

All applications for zoning clearance permits shall be accompanied by a drawing drawn to reasonably describe the addition or improvement on suitable paper, showing the actual dimensions of the lot to be built upon, the size and location of the building to be erected, and such other information as may be necessary to satisfy the requirements of these regulations. If there is to be an alteration in topography a plat plan is required to be furnished.

Section 12-307 FEES.

Zoning clearance permits shall be issued without charge.

Section 12-308 BUILDING PERMIT REQUIRED.

A. The building permit is issued by the building inspector appointed by the City Council of the city.

B. Whenever any structure or building is to be built, erected, enlarged or have such building or structure's roofline extended, a building permit shall be obtained from the building inspector. The applicant shall furnish the following information:

1. A drawing drawn to reasonably describe the addition or improvement showing the exact size, shape, and dimensions of the lot to be built on, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be altered, erected or moved, and the ways of ingress and egress. If there is to be an alteration in topography, a plat plan is required to be furnished;

2. A copy of the zoning clearance permit issued by the zoning administrator if the building inspector so requires; and

3. Additional information relating to the proposed improvement needed to determine compliance with this Section, including a survey, prepared by an engineer registered in the State of Oklahoma, of the boundaries of the lot on which the improvement is proposed to be located may be required by the building inspector where the boundaries of the lot are not clearly defined by survey pins and monuments.

Section 12-309 VIOLATIONS AND PENALTIES.

A violation of this chapter shall be deemed a violation of the code of the city and shall be punishable by fine. Any person, firm or corporation who violates or refuses to comply with any of the provisions of this chapter shall be punished as provided in Section 1-108 of this code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

DIVISION 2

AMENDMENTS

Section 12-310 PLANNING COMMISSION RECOMMENDATION REQUIRED.

A. The regulations, restrictions, prohibitions and limitations

imposed and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the planning commission, after notice and public hearing, files with the City Council a report and recommendation on the proposed change.

B. The city council may, from time to time, on its own motion, or on petition from a property owner, or on recommendation of the planning commission, amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing held in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.

Section 12-311 APPLICATION FOR AMENDMENT.

An owner or his duly authorized agent or representative may make application for the amendment of the zoning restrictions applicable to his property by filing with the planning commission a written application in such form and content as the planning commission may by resolution establish. The applicant shall pay the fee as set out in this Code and shall further pay any and all costs of publication.

Section 12-312 NOTICE AND PUBLIC HEARING.

A. Parties in interest and citizens shall have an opportunity to be heard at a public hearing before the planning commission on any application, and before any district regulation, restriction, or boundary shall become effective. Upon receipt of an application, the planning commission shall set a date for public hearing not less than twenty (20) days nor more than sixty (60) days from the date of filing. At least fifteen (15) days' notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the city. The notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in the area.

B. Except as authorized in subsection C of this section, in addition to the notice requirements provided for in subsection A hereinabove, a notice of a public hearing on any proposed zoning change, except by a municipality acting pursuant to subsection C of this section, shall be given twenty (20) days prior to the hearing by mailing written notices by the secretary of the planning commission, to all the owners of real property within a three hundred (300) feet radius of the exterior boundary of the territory contained in the application. The application submitted by the applicant shall contain a certified

abstractor, registered professional engineer or registered land surveyor's list of the names of all property owners within such area; no application shall be accepted without such list. The applicant shall also pay the Re-zoning Application Fee in the amount of One Hundred Dollars (\$100.00). The notice shall contain the following:

1. Legal description of the property and the street address or approximate location of the municipality;
2. Present zoning of the property and the zoning sought by the applicant; and
3. Date, time and place of the public hearing.

Additional notice shall also be given by posting the notice of the hearing on the affected property at least twenty (20) days before the date of the hearing.

C. If the planning commission or the city proposes reclassification in order to revise its comprehensive plan or official map or to identify areas which require specific land use development due to topography, geography, or other distinguishing features, including but not limited to flood plains, drainage, historic preservation, and blighted areas, the planning commission or City Council shall require, in addition to the notice requirements provided for in subsection A hereinabove, a sign to be posted on designated properties within the area affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. The notice shall state:

1. The date, time and place of the public hearing;
2. Who will conduct the public hearing;
3. The desired zoning classification;
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

D. In addition to the notices required by Subsection B & C hereinabove, if the zoning change requested permits the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses and any housing or facility that may be used for medical or non-medical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, the entity proposing the change in district regulation, restriction, or boundary shall mail a written notice within thirty (30) days of the hearing to all real property owners within one-quarter of a mile where the area to be affected is located and shall be responsible for all costs incurred

in mailing this notice. For purposes of this subsection, "entity" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, incorporated municipality or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized.

Section 12-313 PLANNING COMMISSION ACTION.

A. After notice and public hearing, the planning commission shall vote to:

1. Recommend to the City Council that the application be approved as submitted, or as amended, or be approved subject to modification; or

2. Recommend to the City Council that the application be denied.

B. An application recommended for approval, or approval subject to modification, shall be transmitted to the city with the report and recommendation of the planning commission within fifteen (15) days from the date of planning commission action.

C. An application recommended for denial shall not be considered further unless the applicant, within fifteen (15) days from the date of the planning commission action, files a written request with the City Council for a hearing. Upon notice of such request, the planning commission shall forthwith transmit the application and its report and recommendation to the City Council. There shall be no fee charged the applicant for the hearing.

Section 12-314 CITY ACTION.

The City Council shall hold a hearing on each application regularly transmitted, and on each application, which has been transmitted pursuant to an appeal as provided for in Section 12-313. The City Council shall approve the application as submitted and recommended by the planning commission, or approve the application subject to modification, or deny the application, or return the application to the city planning commission for further study.

Section 12-315 PROTEST TO AMENDMENT.

A. Protests against the proposed changes in regulations, restrictions and district boundaries in the city shall be filed at least three (3) days before the date of the public hearing before the City Council. If protests are filed by:

1. The owners of twenty percent (20%) or more of the area of the lots included in a proposed change; or

2. The owners of fifty percent (50%) or more of the area of the lots within a three hundred (300) foot radius of the exterior boundary of the territory included in a proposed change;

then the proposed change or amendment shall not become effective except by the favorable vote of three-fifths (3/5) of all the members of the City Council.

ARTICLE 4

FLOOD DAMAGE PREVENTION

STATUTORY AUTHORIZATION FINDINGS OF FACT STATEMENT OF PURPOSE AND METHODS

SECTION 12-401 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in 82 O.S. §§1601-1618, as amended, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Commission of Cherokee, Oklahoma does ordain as follows:

SECTION 12-402 FINDINGS OF FACT

1. The flood hazard areas of the City of Cherokee, Oklahoma, are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION 12-403 STATEMENT OF PURPOSE.

It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water, and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION 12-404 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this section uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in the times of flood, or in case of excessive increase in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

DIVISION 2

DEFINITIONS

SECTION 12-405 DEFINITIONS.

Unless specifically defined below, words, or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

"Accessory Structure" means structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

"Alluvial Fan Flooding" means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, deposition; and unpredictable flow paths.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the flood plain administrator's interpretation of this section or a request for a variance.

"Area of shallow flooding" means a designated AO or AH Zone in a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones, A, AE, AH, AO or A1-99.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building have its floor sub-grade (below ground level) on all sides.

"Board" means the Oklahoma Water Resource Board.

"Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

"Development" means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AH, B, C, X, and D. In case of Zones A1-30, AE, A, A99, AH, B, C, X and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"Existing construction" means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMS effective before that date. "Existing construction" may also be referred to as "existing structures".

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood or Flooding" means a general and temporary condition or partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters;

b. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map (FIRM and FBFM).

"Floodplain Administrator" means a person accredited by the Board to administer and implement laws and regulations relating to the management of the floodplains. The Floodplain Administrator shall be designated by the floodplain board, which floodplain board shall consist of the five citizens and residents who are the persons presently constituting the Mayor and members of the governing board of the City of Cherokee, Oklahoma, and the persons who shall be their successors as Mayor, and members of said governing board of the City of Cherokee, Oklahoma, and each such successor in office shall, upon taking the Oath of Office, but without any further act, deed or conveyance, automatically become a member of the floodplain board.

"Flood plain or flood-prone area" means anyland area susceptible to being inundated by water from any source (See definition of flooding).

"Flood plain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs,

levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway (Regulatory Floodway)" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historical structure" means any structure that is:

a. Listed individually in the national Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior or;

2. Directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment,

designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

"Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufacturedhome lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations are shown on a community's flood insurance rate map are referenced.

"New construction" means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by a community.

"Recreational vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either, 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or 2) Any alteration of a "historic

structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction, or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program Regulations.)

"Violations" means the failure of a structure or other developments to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b) (5), (c) (4), (c) (10), or (d) (3), is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other Datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

DIVISION 3

GENERAL PROVISIONS

SECTION 12-406 LANDS TO WHICH THIS ORDINANCE APPLIES.

The Article shall apply to all areas of special flood hazard with the jurisdiction of the City of Cherokee.

SECTION 12-407 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for City of Cherokee, dated the 30th day of October 1979, with accompanying Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this Article.

SECTION 12-408 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this Article.

SECTION 12-409 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION 12-410 ABROGATION AND GREATER RESTRICTIONS.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another set of regulations or ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-411 INTERPRETATION.

In the interpretation and application of this section, all provisions shall be: 1) considered as minimum requirements; 2) liberally construed in favor of the governing body; and 3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 12-412 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural cause. These regulations do not apply to that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community, or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

DIVISION 4

ADMINISTRATION

SECTION 12-413 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Council of the City of Cherokee hereby designates the City Manager as the Floodplain Administrator to administer and implement the provisions of these regulations and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION 12-414 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager is the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article.

2) Review permit application to determine whether proposed building site will be reasonably safe from flooding;

3) Review, approve or deny all applications for development permits required by adoption of this Article;

4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

5) When interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.

6) Notify, in riverine situations, adjacent communities and the state coordination agency which is the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8) When base flood elevation data has not been provided in accordance with Section 12-407, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer the provisions of flood hazard reduction.

9) When a regulatory has not been designated the floodplain administrator must require that no new constructions, substantial improvements, or other developments (including fill) shall be permitted within Zones A1-30 and are on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development,

when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

11. Become accredited by the Board in accordance with Title 82 O.S. §§1601-1618, as amended.

12. After a disaster or other type of damage occurrence to structures in the City of Cherokee determines if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION 12-415 PERMIT PROCEDURES.

1. Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location dimensions, and elevation of proposed landscape alterations, existing, and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

A. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

B. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Division 5, Section 12-418(2);

D. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

E. Maintain a record of all such information in accordance with Division 4, Section 12-414.1.

2. Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

A. The danger of life and property due to flooding or erosion damage;

B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

C. The danger that materials may be swept onto other lands to the injury of others;

D. The compatibility of the proposed use with existing and anticipated development;

E. The safety of access to the property in times of flood for ordinary and emergency vehicles;

F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

G. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

H. The necessity to the facility of a waterfront location, where applicable;

I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

J. The relationship of the proposed use to the comprehensive plan for that area.

SECTION 12-416 VARIANCE PROCEDURE

1. The Board of Adjustment, authorized pursuant to Chapter 12, Article 1, Division 2, Sections 12-120 through 12-126 of the Cherokee Municipal Code 2020, as amended (hereinafter the "appeal board") is the appeal board established by the community and shall hear and render judgment on requests for variances from the requirements of these regulations.

2. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

3. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historical Places, without regard to the procedures set forth in the remainder of these regulations and ordinances.

4. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-415.2 of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

5. Upon consideration of the factors noted above and the intent of this section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

7. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

8. Prerequisites for granting variances:

A. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

B. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,

extraordinary public, or conflict with existing local laws or ordinances.

C. A written notice will be provided to any person granted a variance to build a structure below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

9. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduction of a functionally dependent use provided that (i) the criteria outlined in Division 4, Section 12-416 (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

10. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

11. A copy of any variance issued shall be sent to the OWRB within fifteen (15) days of issuance.

DIVISION 5

PROVISIONS FOR FLOOD HAZARDS REDUCTION

SECTION 12-417 GENERAL STANDARDS.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters into the system; and,

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 12-418 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Division 3, Section 12-407, (ii) Division 4, Section 12-414(8), or (iii) Division 5, Section 12-419 (4), the following provisions are required:

1. Residential construction--new construction and substantial improvements of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in Article of the Subsection as proposed in Division 4, Section 12-415(1)A., is satisfied.

2. Nonresidential construction--new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction, are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

3. Enclosures--new construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood force on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be

certified by a registered professional engineer or architect or meet or exceed the following minimum criteria;

A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than one-foot above grade.

C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes.

A. Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood danger. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to; use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Require that manufactured homes are placed or substantially improved with Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be placed on a permanent foundation so that the bottom of the structural I-Beam is elevated at or above the base flood elevation and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.

C. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of paragraph 4 of this section have the bottom of the structural I-Beam elevated at or above the base flood elevation elevated on reinforced piers or other foundation elements of at least equivalent strength that are securely anchored to resist flotation, collapse, and lateral movement support the manufactured home chassis.

5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

A. Be on the site for fewer than 180 consecutive days,

B. Be fully licensed and ready for highway use, or

C. Meet the permit requirements of Division 4, Section 12-415 (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

6. Accessory Structures

A. Structures is low valued and represents a minimal investment.

B. Structure shall be small and not exceed 600 square feet in size.

C. Structure shall be unfinished on the interior.

D. Structure can be used only for parking and limited storage.

E. Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).

F. Service facilities such as electrical and heating equipment must be elevated to or above the BFE or floodproofing.

G. Structure is constructed and placed on building sites so as to offer the minimum resistance to the flow of floodwaters.

H. Structure is designed to have low flood damage potential, i.e., constructed with flood resistant materials.

I. Structure is firmly anchored to prevent flotation, collapse and lateral movement.

J. Floodway requirements must be met in the construction of the structure.

K. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

L. Structure is to be located so as not to damage to adjacent and nearby structures.

SECTION 12-419 STANDARDS FOR SUBDIVISION PROPOSALS.

1. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with this Division 1, 12-402, 12-403 and 12-404 of these regulations.

2. All proposals for the development of subdivisions including manufactured home parks and subdivision shall meet development permit requirements of Division 3, Section 12-408; Division 4, Section 12-415; and the provisions of Division 5.

3. Base Flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Division 3, Section 12-407 or Division 4, Section 12-414(8) of this Article.

4. All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

SECTION 12-420 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Division 3, Section 12-407, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow: therefore, the following provisions apply;

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

2. All new construction and substantial improvements of nonresidential structures;

(a) Have the lowest floor (including basements) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

(b) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. Registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Division 4, as proposed in Section 12-415, are satisfied.

4. Require within Zones AH, or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

DIVISION 6

PENALTY

Section 12-421 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall be hereinafter constructed, located, extended, converted, or altered without full compliance with the terms of these regulations or ordinance and other applicable regulations. Violation of the provisions of these regulations or ordinances by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates these regulations or ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 plus court costs and penalty assessments, for each violation, and in addition shall pay all the costs and expenses involved in the case. Nothing herein contained shall prevent the City of Cherokee officials from taking such other lawful actions as may be necessary to prevent or remedy any violation.

ARTICLE 5

MOBILE HOMES, MANUFACTURED HOMES, NEW MANUFACTURED HOMES, MODULAR HOMES, MOBILE HOME AND TRAVEL TRAILER PARKS & FREE-STANDING TRAVEL TRAILERS

Section 12-501 Purpose.

General Description. The purpose of this article is to provide for specific regulations related to mobile, manufactured and modular homes,

in order that such residential uses may be located in the City of Cherokee in accordance with the provisions in this Article. The purpose for these regulations is to permit a less expensive alternative and greater variety of housing choices in the City of Cherokee, provided the public health, safety and welfare of the City is not adversely effected and the location of such residential use substantially complies with this Code. A further purpose and intent of these regulations is to establish and provide minimum acceptable standards, requirements, and regulations for the planned use and maintenance of these residential uses within the corporate limits of the city, in the interest of health, safety, and general welfare of the public. The standards, requirements and regulations as herein provided are intended to encourage the use and maintenance of these residential uses in a manner providing for safe and sanitary living conditions and convenience for its occupants and neighbors. It is further intended to discourage any use which would create additional requirements and costs for public services which would be in excess of such requirements and costs required by conventional single-family residential use. It is further a purpose of this Article to permit Mobile Home and Travel Trailer and Free-Standing Travel Trailers under certain specific conditions.

Section 12-502 Definitions.

The following definitions shall apply in this Article:

"Free-Standing travel trailer" means any travel trailer not located in a mobile home park, travel trailer park or in an approved mobile home subdivision.

"Manufactured Home" shall mean a manufactured structure built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto, as amended, bearing a seal verifying such compliance, or such other manufactured structure that meets or exceeds all state and local building codes, or such other manufactured structures that meets or exceeds all state and local building codes, and is designed, constructed and to be used for long term occupancy as a complete single-family dwelling, pre-manufactured and using the same materials and components as a conventional home, set on a poured footing with perimeter foundation or on an approved slab and bolted to the same and:

1. Is comprised of single or multiple fully enclosed structures with a minimum aggregate size of 1200 square feet;
2. Is constructed with a composition or wood shake or shingle, coated metal, or similar roof with not less than a 3:12 pitch;

3. Has exterior siding similar in appearance, as determined by the building official, to siding materials commonly used on conventional site-built single-family dwellings built under the International Building Code; and
4. Is installed by a state licensed manufactured home installer.

"New Manufactured Home" shall mean a manufactured structure built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto, as amended, bearing a seal verifying such compliance, or such other manufactured structure that meets or exceeds all state and local building codes, or such other manufactured structures that meets or exceeds all state and local building codes, and is designed, constructed and to be used for long term occupancy as a complete single-family dwelling, pre-manufactured and using the same materials and components as a conventional home, set on a poured footing with perimeter foundation or on an approved slab and bolted to the same and:

1. Is comprised of single or multiple fully enclosed structures with a minimum aggregate size of 1200 square feet;
2. Is constructed with a composition or wood shake or shingle, coated metal, or similar roof with not less than a 3:12 pitch;
3. Has exterior siding similar in appearance, as determined by the building official, to siding materials commonly used on conventional site-built single-family dwellings built under the International Building Code; and
4. Is installed by a state licensed manufactured home installer.
5. Has never been previously installed on real property and constitutes a new and unused residential structure; and

"Mobile Home" means a manufactured, detached structure not meeting the one-and two-family structure requirements of the building code, but which is originally designed, constructed, and used for long-term occupancy as a complete single-family dwelling, is mounted on a permanent chassis with wheels attached thereto which is transportable in one or more components or two (2) or more units separately towable but designed to be joined into one integral unit, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or permanent foundations, skirting, connection to utilities and similar operations. Mobile homes shall have a steel frame and are tied down with straps and rest on blocks or similar foundation, footing or stem wall. Motor Homes, Travel trailers

and Camping trailers are not deemed Mobile Homes for the purpose of this Section. Mobile Homes are no longer manufactured.

"Mobile home park" means any plot of ground having more than two (2) mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation;

"Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home, and not located on a mobile home sales lot;

"Modular Home" means a manufactured structure fabricated off-site, meeting the one-and two-family structure requirements of the International Building Code, designed, constructed, and used for long term occupancy as a complete dwelling unit(s), containing two (2) or more sections, built in pre-finished modules or pieces off-site and assembled and finished on site, and attached to a slab or other foundation properly anchored;

"Travel trailer" or "trailer" means all vehicles and portable structures built on a chassis, designed as a temporary or permanent dwelling for travel, recreational, and vacation use not included in the definition of independent mobile homes. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified;

"Trailer park" or "travel trailer park" means any plot of ground having more than two (2) travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations; and

"Travel trailer space" means a plot of ground within a travel trailer park designed for accommodation of one travel trailer.

Section 12-503 Mobile Homes.

Mobile Homes which have lawfully existed in their current location and zoning districts for at least one year prior to May 1, 2020, may continue to remain on at such location as a non-conforming use. Otherwise, except for their lawful placement in a mobile home park or at a commercial business which sells mobile homes or for use as a construction headquarters on any construction site during the construction period or on any city property as permitted by the City Manager, no mobile home shall be moved into or placed on any tract of property within the corporate limits of the City. Provided however, any owner of a mobile home shall be permitted to replace any existing mobile home lawfully existing for at least one year prior to May 1, 2020, with

a newer mobile home on such same property. Any mobile home lawfully placed shall provide for the following:

1. All electrical materials, devices, appliances, and electrical equipment are in sound and safe condition. Aluminum conductors are not accepted.
2. All mechanical systems, including space and water heating, are in sound and safe condition.
3. All plumbing, gas piping, and waste systems are in sound and safe condition.
4. All structural systems are in sound and safe condition. Mobile Homes which show signs of fire damage, are not permitted.

A. Structural additions. It is the intent of these regulations to insure that structural additions to mobile homes located on individual lots are of quality design and construction, in accordance with the applicable provisions of this section.

1. Carports and patio covers shall be permitted, provided they cover a permanently surfaced parking or improved patio area, and meet the minimum building setback requirements.

2. Garages shall be permitted, provided they cover a permanently surfaced parking area and are connected to the streets by a permanently surfaced drive, meet the minimum building setback requirements, and have roof and siding material that is compatible with the primary structure.

3. Living area additions shall be permitted, provided they meet the minimum building set back requirements, have roof and siding material that is compatible with the primary structure, and comply with the same minimum structural standards as required of the primary structure.

4. For purpose of this Section, permanently surfaced shall mean a surface covering which is sloped and drained so as to prevent standing pools of water and which shall meet or exceed the following minimum standards:

- a. Four (4) inches of compacted screenings on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the building official.

- b. Four (4) inches of gravel contained by timbers or other curbing around its perimeter on a four-inch base of stabilized subgrade

or the equivalent thereto, which has been approved by the building official.

c. Two (2) inches of hot asphaltic concrete on a four-inch base of stabilized aggregate or the equivalent thereto, which has been approved by the building official.

d. Four (4) inches of Portland cement concrete on a two-inch sand cushion or the equivalent thereto, has been approved by the building official.

B. Individual lot requirements.

1. Each mobile home shall have two (2) permanently surfaced off-street parking spaces no less than two hundred (2000) square feet in area.

2. If gas is being supplied it shall be designed such that the connection between the mobile home and gas service line will not occur underneath the mobile home.

3. Setback Requirements. Setback requirements shall conform to those of the zoning district in which the mobile home is placed.

C. Sanitation. A mobile home that does not have a built-in bathroom with water closet, lavatory and shower or tub in working condition shall not be maintained, authorized nor otherwise permitted for occupancy in the corporate city limits.

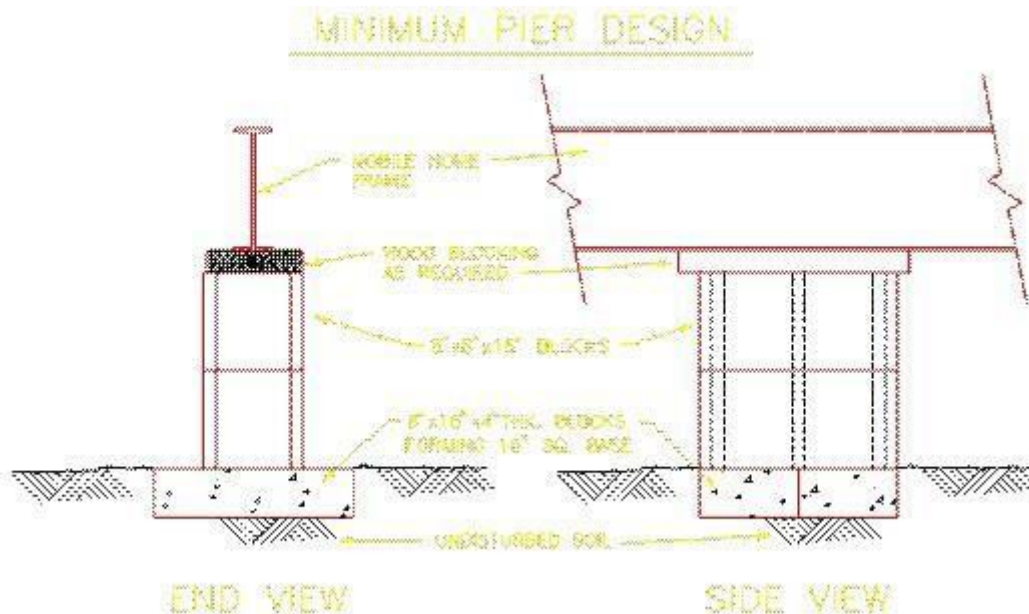
D. Utilities. Utility service shall be provided in a safe and reliable manner in accordance with each and all of the applicable codes set out in of the Cherokee Municipal Code.

E. Gas Connection. Connection shall be made to the public natural gas system and all gas piping shall be installed by a licensed contractor only. Before a mobile home is moved, adequate arrangements shall be made to assure that all gas connections are properly disconnected.

F. Supports and Tie downs. It shall be the responsibility of the owner or occupant of any mobile home to cause such mobile home to be anchored and tied down securely in accordance with the following minimal standards within a period of no longer than thirty (30) days after moving a mobile home onto a city lot.

1. The mobile home shall have its frame supported by a foundation system capable of safely supporting the loads imposed as determined by the character of the soil. The minimum foundation design shall be a series of piers spaced at no more than ten (10) foot intervals and no

farther than five (5) feet from the ends of the mobile home. All piers shall be of standard concrete block construction, 8 x 16 inches, and shall rest on solid concrete blocks or pads of concrete measuring no less than 8 x 16 x 4 inches, forming a base sixteen (16) inches square. For leveling purposes, wood blocking no less than the nominal dimensions of 8 x 16 inches with a maximum thickness of four (4) inches may be used.



2. The tie down and anchoring system shall be provided as recommended by the manufacturer or as follows:

a. Tie down anchors shall be securely installed in soil providing a stable foundation to withstand a minimum pull of three thousand seven hundred fifty (3,750) pounds for each ten (10) feet of a mobile home.

b. All ties and connectors shall be of a type approved by the United States Department of Housing and Urban Development (H.U.D.) for mobile home anchoring.

G. Skirting. It shall be the responsibility of the owner or occupant of any mobile home, within a period of no longer than thirty (30) days after moving such mobile home into a mobile home park or other location within the corporate limits of the City, to cause such mobile home to be totally skirted as directed by the City Manager. The skirting shall be secured to the mobile home and to the ground in a manner that will prevent the intrusion of animals and will reduce the hazards of strong winds under said home.

H. Home Occupation: A home occupation is permitted as defined in this code providing that all requirements for the applicable zoning district are met.

I. Permits, fees, and inspections. Prior to the location of any mobile home in the corporate city limits, a permit shall be secured and a fee paid.

1. Permit. The owner, occupant, mover or park manager shall apply for a mobile home hookup permit from the building official when locating a mobile or manufactured home in the City.

2. Fees. The applicant shall submit a fee of twenty-five dollars (\$25.00) for a mobile home hookup permit. This fee shall cover all required inspections.

3. Inspections. The permit holder shall notify the zoning officer, who thereafter shall cause to be made an inspection, upon completion of the following items:

a. Plumbing and gas hookups, according to the plumbing and gas licensing ordinances and codes.

b. Electrical hookup, according to the electrical licensing ordinance and code.

c. Tie downs and skirting, in accordance with the applicable subsections of these mobile home regulations.

4. Expiration. The mobile home hookup permit shall expire upon the removal of the mobile home.

J. Revocation. Any act, omission, or condition which violates the mobile home standards or which violates the building, plumbing, mechanical or electrical codes shall be grounds for revocation of the mobile home permit.

Section 12-504 Manufactured Homes and New Manufactured Homes.

A. Manufactured Homes and New Manufactured Homes shall follow all the terms and conditions of this section; provided however, Manufactured Homes, unlike New Manufactured Homes, are subject to the Use by Review Process as provided in Section 12-287 B, C, D, E, F and G prior to their location on any properly zoned tract, permitting Manufactured Homes, in the City.

Procedure and Criteria. Any person or other entity desiring to locate and install a Manufactured Home New Manufactured Home on a tract or real

property within a permitted zoning district shall file an application for a building permit with the City Clerk pursuant and in addition provide all the information required by the Building Official to be provided for a Manufactured Home or New Manufactured Home Application, including but not limited to photographs of and pamphlets regarding such Manufactured Home or New Manufactured Home; any required certification that the Building Official deems appropriate to provide such Manufactured Home or New Manufactured Home meets the terms of the definition or installation criteria; the number of sections, size, nature and composition of the section; the type and nature of siding, roof materials, including pitch; the method and type of installation and attachment; the name and address and other information as desired regarding the seller and the Manufactured Home Installer. Such information shall be reviewed by the City Manager and the following minimum standards shall be met:

B. Installation and attachment method shall as a minimum consist of perimeter bolting to stem wall or slab and other interior supports as designed by the manufacturer and approved by the Building Official.

C. After installation, the perimeter of the Manufactured Home or New Manufactured Home shall be fully enclosed by concrete or an approved concrete product.

D. A least two (2) permanent surfaced (asphalt or concrete) off-street parking spaces of no less than two hundred square feet each shall be provided in a location as approved by the committee.

E. The Manufactured Home or New Manufactured Home complies with any design standards applicable to all other homes within the neighborhood in which the New Manufactured Home is to be located.

F. All other requirements relating to conventional housing and as provided in any applicable zoning district shall also apply.

G. No Manufactured Home or New Manufactured Home shall be permitted to be placed in any location where the same is not permitted by any legally recorded covenant or deed restriction of record.

H. The Manufactured Home or New Manufactured Home shall comply with the terms of all other provisions of this municipal code.

I. City Manager Determination and Appeals. If the City Manager determines that a building permit shall be issued in accordance with the application, the City Manager shall make such determination. An appeal from the decision of the City Manager may be taken to the City Council if filed with the City Clerk within ten (10) days of such adverse decision and thereafter the City Council's decision shall be final.

J. Appropriate Zoning Districts. New Manufactured Homes as approved by the City Manager or otherwise approved after appeal may be located and shall be permitted by right in any A-G Agricultural District or R-G Residential District as provided in this municipal code. Manufactured Homes as approved by the City Manager or otherwise approved after appeal may be located, after a Use by Review Process, in any A-G Agricultural District or R-G Residential District or R-1 Single Family Residential District as provided in this municipal code. In any use by review procedure the Planning Commission may recommend and the City Council may require any other requirement to ensure that the Manufactured Home conforms to the neighborhood and protects the public health, safety and welfare of the public. Provided however, no New Manufactured Home or Manufactured Home shall be permitted along Grand Avenue.

K. Violations. No person or other entity shall violate, by act or omission, any provision of this section and the applicant shall follow all the requirements of this code and decision of the City Manager or other regulatory authority's approval or denial.

Section 12-505 Modular Homes.

Modular homes shall be permitted by right in any appropriate zoning district permitting single-family dwellings.

Section 12-506 Mobile and Manufactured Homes' Location Prohibited in the Corporate Limits; Exceptions

No Mobile Home and/or Manufactured Home shall be permitted to be located in the corporate limits of the City unless such use is permitted as provided by this Article; provided however, travel trailers, recreational vehicles, 3-wheels, boats with trailers, and similar recreational vehicles (hereinafter "vehicles and/or trailers") shall be permitted to be stored in any residential district (provided no human or other occupancy of the trailer and/or vehicle shall be permitted except as otherwise permitted in this Article). Except as otherwise permitted in this municipal code, commercial vehicles and trailers of all types, including travel, camping and hauling, Mobile Homes or Manufactured Homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the terms of this Article. All vehicles and/or trailers permitted to be stored pursuant to this section shall be placed on an all-weather surface in the side or rear yard of such residential district lot, in compliance with all side and rear yard set-back requirements applicable to structures. No such vehicles and/or trailers shall be permitted to be stored on any city street or alley in any residential district, or shall be placed or stored in the front yard of any residential district, or shall impede ingress and egress to or from adjacent properties or create a site triangle traffic hazard, except as provided in this Article.

Section 12-507 Mobile Home Park or Travel Trailer Park.

Applicability. No mobile home or manufactured home or vehicles and/or travel trailers shall be permitted within the corporate limits of the City except in strict conformance with the standards of this Article, except in the municipally owned Cherokee RV Park or upon other municipally owned property or aa otherwise provided in this municipal code.

SECTION 12-508 LICENSE AND TEMPORARY PERMIT.

A. It is unlawful for any person to construct, maintain or operate any mobile home park or travel trailer park within the city limits unless such person holds a valid license issued annually by the City Clerk with the approval of the City Manager or designee of the city, in the name of such person for the specific mobile home or travel trailer park, except that the maintenance or operation of a mobile home, park or travel trailer park in existence on the effective date of this Article may be continued under a temporary permit for such period of time and under such conditions as are hereinafter described.

B. City Manager Approved Mobile Home Park or Travel Trailer Park; Application. An application for a City Manager approved Mobile Home Park or Travel Trailer Park shall be filed with the City Clerk and accompanied by an affidavit of the applicant as to the truth of the application and contain the following information.

1. Name and address of the Applicant (In addition, every person holding such a license shall notify the City Manager or designee in writing within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of, interest in or control of the person succeeding to the ownership or control of such mobile home park or travel trailer park);

2. The interest of the applicant in and the location and legal description of the park;

3. A complete plan of the park showing compliance with all applicable provisions of this Article and regulations promulgated thereunder, including but not limited to a plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot on which the mobile homes and/or travel trailers are to be placed; the exact size and location on the subject property wherein each mobile home and/or travel trailer will be placed; compliance with all setbacks; the location of driveways; the location of all utility hookups to include water, sewer and electricity; copy of the applicants deed to the property. In addition, the following information shall be provided.

- a. The area and dimensions of the tract of land;
 - b. The number, locations, and size of all mobile home spaces or travel trailer spaces;
 - c. The location and width of roadways, walkways, buffer strips and recreational areas;
 - d. The locations of service buildings and other proposed structures;
 - e. Plans and specifications of all buildings and other improvements constructed or to be constructed within the park.
4. A certified list of property owners located within a three hundred feet (300') radius of the exterior boundary of the proposed Mobile Home Park or Travel Trailer Park, from an abstractor, together with a copy of any written restrictive covenants relating to the property or lot or a certified statement from the abstractor stating that no such restrictive covenants exist.
5. A written statement from each utility company, including the City, showing the manner and nature of the utility connection and the estimated cost of such connection.
6. Additional information relating to the application needed to determine compliance with these regulations, including traffic considerations, light, parking, drainage, appropriateness of the property for a Mobile Home Park or Travel Trailer Park and any other such information as requested by the City Manager or designee necessary to properly consider the application.
7. An application fee of One Hundred Dollars (\$100.00).
- C. Review; Notice; Hearing. The City Manager or designee shall review the application and if complete, a written notice shall be posted on the subject property, which notice shall contain the following information:
1. Legal description of the property and the street address or approximate location in the City;
 2. Present use of the property and the use by review sought by the applicant;
 3. Date, time and place of the hearing.

In addition, the written notice shall be mailed by first class mail, postage pre-paid, to all owners of real property listed on the abstractor's certificate. The hearing shall not be held sooner than ten (10) days from the date of posting and mailing the written notice.

D. Authorization. The City Manager or designee shall conduct the hearing on the date, time and place provided in the written notice. All persons desiring to participate shall be given the opportunity to speak and present evidence. The City Manager shall base his decision on the following criteria:

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the Mobile Home Park or Travel Trailer Park will not be substantially injured.

2. Intent of General Description: That the location of the Mobile Home Park or Travel Trailer Park is consistent with the intent and purpose of the particular location to promote public health, safety and general welfare.

3. That the granting of the use is in substantial compliance with this code.

E. The City Manager may approve or disapprove the use or provide for additional conditions upon which the use may be permitted, including but limited to providing for screening. All decisions shall be reduced to writing. Any aggrieved person has the right to file a written appeal of the decision of the City Manager to the City Council; provided such written appeal shall be filed within five (5) days from the date of the City Manager's decision. Such written appeal shall be filed with the City Clerk, who shall place the item on the next regularly scheduled meeting. The City Council's decision shall be final.

F. If approved, an annual license permitting the Mobile Home Park or Travel Trailer Park shall be issued to the applicant. Applications for annual renewals of such license shall be made in writing by the holder of the license and shall contain the following:

1. Any change in the information submitted since the time the original license was issued or the latest renewal granted; and

2. Other information requested by the City Manager or designee.

G. Whenever the City Manager or designee finds conditions existing in violation of this Article, or of any regulation adopted pursuant thereto, he shall give notice in writing to the person to whom the license was issued that, unless such conditions or practices be corrected within a reasonable period of time specified in the notice,

the license will be suspended. At the end of such period, not to exceed ninety (90) days, the City Manager or designee shall re-inspect such park, and if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension such person shall cease operation of such park except as provided in Subsection E of Section 12-509 of this code.

H. Any person whose license has been denied, suspended, or who has received notice from the City Manager or designee that his permit will be suspended unless certain conditions or practices at the park are corrected, may request and shall be granted a hearing on the matter before the City Manager or designee, provided that when no petition for such hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten-day period.

I. A temporary permit, upon written request therefore, shall be issued by the City Clerk upon written approval of the City Manager or designee for every mobile home park or travel trailer park in existence upon the effective date of this Article, permitting the park to be maintained and operated during the period ending one year after the effective date of this Article without being subject to the other provisions of this Article except such of the provisions as are made expressly applicable to permittees.

J. The term of the temporary permit may be extended, upon written request, for not to exceed one additional period of up to one hundred and eighty (180) days if:

1. The permittees shall have filed application for a license in conformity with this Article within one year after the effective date of this Article;

2. The park plans and specifications accompanying the application for license comply with all the provisions of this Article and all other applicable ordinances and statutes; and

3. The permittee has diligently endeavored to make the existing park conform fully to the plans and specifications submitted with the application but has failed to do so due to circumstances beyond his control.

K. Mobile home parks and travel trailer parks in existence upon the effective date of this Article which have concrete pads indicating the location of mobile home spaces or travel trailer spaces need not comply with those sections of this Article which would require the

moving of concrete pads. In addition, any park expansion shall be in full compliance with provisions of this Article.

L. At all times that a Mobile home parks and travel trailer parks is occupied pursuant to this Article and as a part of the initial and subsequent licensing process, the owner or person in lawful control of the real property shall ensure that there is maintained a general liability policy of insurance in the minimum aggregate amount of \$1,000,000.00 protecting the general public from any liability that may be occasioned through the operation of the Mobile home or travel trailer park, including property damage and injury to persons, including death. A certificate showing that such coverage is in full force and effect shall be on file at all times in the Office of the City Clerk and any termination, amendment, cancellation of such insurance coverage must be proceeded with at least ten (10) days written notice to the City Clerk.

SECTION 12-509 LICENSE FEES AND TEMPORARY PERMITS, POSTING

A. The City Clerk shall charge and collect for each mobile home park or travel trailer park an initial license or temporary permit of in such sum as set by the city council by motion or resolution per park. The initial license or temporary permit shall expire one year from the date of issue, unless renewed upon such conditions as the city council may direct from time to time.

B. The license certificate or temporary permit shall be conspicuously posted in the office of or on the premises of the mobile home park or the travel trailer park at all times.

SECTION 12-510 INSPECTION OF MOBILE HOME AND TRAVEL TRAILER PARKS.

A. The City Manager or designee is hereby authorized and directed to make inspections to determine the condition of mobile home and travel trailer parks located within the city in order to perform their duty of safeguarding the health and safety of occupants of mobile home parks and of the general public.

B. The City Manager or designee shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigating conditions in relation to the enforcement of this Article or of regulations promulgated there under.

C. The City Manager or designee shall have the power to inspect any register containing a record of all mobile homes and occupants using the park.

D. It is the duty of every occupant of a park to give the owner thereof or his agent or employee access to any part of the mobile home park or travel trailer park or their premises at reasonable times for the purpose of making such repairs or alterations as are necessary to affect compliance with this Article or with any lawful regulations adopted there under, or with any lawful order issued pursuant to the provisions of this Article.

SECTION 12-511 NOTICE, HEARINGS AND ORDERS.

A. Whenever the City Manager or designee determines violations of this Article or pertinent laws or ordinances exist, he shall notify the owner or his agent of the alleged violation. The notice shall:

1. Be in writing.
2. Include a statement of the reasons for its issuance;
3. Contain an outline of remedial action, which, if taken, will effect compliance with provisions of this Article and other pertinent regulations;
4. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and
5. Be served upon the owner or his agent as the case may require. The notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.

B. Any person affected by any notice issued under this Article or resulting regulation may request and shall be granted a hearing on the matter before the City Manager or designee. Such person shall file with the City Manager or designee a written request for such hearing and setting forth briefly the grounds for such request within ten (10) days after the notice was served. When no request for such hearing shall have been filed within ten (10) days following the day on which notice was served, a violation shall be deemed to have been automatically in existence at the expiration of the ten (10) day period. The filing of the request shall not stay the notice in cases of orders issued under this section. The hearing shall be held at the earliest possible time.

C. After the hearing, the City Manager or designee shall compile the findings as to compliance with this Article and pursuant regulations and shall issue an order in writing sustaining, modifying or withdrawing the prior notice which shall be served as provided in this section. Upon failure to comply with such order, the permit of the park shall be revoked. Appeals from decisions of the City Manager or

designee shall be to the city council. The city council's decision shall be final and unappealable.

D. Whenever the City Manager or designee finds that an emergency exists which requires immediate action to protect the public health, the City Manager or designee may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provision of this Article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the City Manager or designee, shall be afforded a hearing as soon as possible.

E. Whenever the City Manager or designee finds conditions existing in violation of this Article, or of any regulation adopted pursuant thereto, the City Manager or designee shall give notice in writing to the person to whom the license was issued, that unless such conditions or practices be corrected within a reasonable period of time specified in the notice, the license will be suspended. At the end of such period, not to exceed ninety (90) days, the City Manager or designee shall re-inspect such park, and if such conditions or practices have not been corrected, the City Manager or designee shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension, such person shall cease operation of such park except as provided in Subsection B of this section.

SECTION 12-512 FREE-STANDING TRAVEL TRAILERS.

A. Purpose. As of the effective date of this section, there exists in the City of Cherokee a need for dwelling units for new residents locating to the City, many of whom are working for oil and gas companies and related industries. Many of these businesses and industries are choosing the City of Cherokee to locate their business operations and/or personnel. In order to help induce the location of these businesses and industries and their employees to the City, and thereby realize increases in taxes and revenues, it is deemed necessary to provide a procedure whereby individual lots located within the City can be made available for the location of travel trailers to be residentially occupied. The purpose of this section is to permit such location under certain circumstances, and to balance the interests of the owners of these lots with that of the surrounding property owners. This section shall not apply to travel trailers placed in mobile home parks or travel trailer parks.

B. Penal Provision. It is unlawful for any person, firm or entity to permit or allow the location of a residentially occupied travel trailer (for living or sleeping purposes) upon any city lot or

other location, or to residentially occupy any travel trailer, except as specifically approved by this Article.

C. Minimum Lot Size Requirement; Setbacks. The minimum lot size for one (1) travel trailer to be located and residentially occupied shall be 2500 square feet. At least 2500 square feet of lot area shall be provided for each travel trailer to be located on any city lot. No travel trailer shall be located closer than twenty-five feet (25') to another travel trailer. The setback requirements shall be as follows: front yard 25'; rear yard 10'; side yard 5'.

D. Type and Nature of Travel Trailers. All travel trailers to be residentially occupied shall contain toilet, shower or bath and kitchen facilities which are fully operable and capable of being connected to the municipal water and sewer systems. No travel trailer in disrepair or materially damaged or having been burned or flooded and still showing such condition shall be permitted to be residentially occupied. All travel trailers to be residentially occupied shall be inspected by the City Manager or designee prior to their residential occupancy, which travel trailer shall bear a sticker showing the date of each such annual inspection and signed by the inspector. Travel trailers may contain propane tanks for cooking purposes only; provided however such propane tanks may not exceed 100 lbs. of liquified petroleum gases.

E. City Manager Approved Travel Trailer Permit; Application. An application for a City Manager approved Travel trailer permit shall be filed with the City Clerk containing the following information:

1. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot on which, the travel trailer is to be placed; the exact size and location on the lot wherein each travel trailer is to be placed; compliance with all setbacks; the location of driveway(s); the location of all utility hookups to include water, sewer and electricity; copy of the applicants deed to the property.

2. A certified list of property owners located within a three hundred feet (300') radius of the exterior boundary of the property or lot upon which the travel trailer(s) will set, from an abstractor, together with a copy of any written restrictive covenants relating to the property or lot or a certified statement from the abstractor stating that no such restrictive covenants exist.

3. A written statement from each utility company, including the City, showing the manner and nature of the utility connection and the estimated cost of such connection.

4. Additional information relating to the application needed to determine compliance with these regulations, including traffic considerations, light, parking, drainage, appropriateness of the property or lot for a travel trailer and any other such information as requested by the City Manager or designee necessary to properly consider the application.

5. An application fee of One Hundred Dollars (\$100.00).

F. Review; Notice; Hearing. The City Manager or designee shall review the application and if complete, a written notice shall be posted on the subject property, which notice shall contain the following information:

1. Legal description of the property and the street address or approximate location in the City;

2. Present use of the property and the use by review sought by the applicant;

3. Date, time and place of the hearing.

In addition, the written notice shall be mailed by first class mail, postage pre-paid, to all owners of real property listed on the abstractor's certificate. The hearing shall not be held sooner than ten (10) days from the date of posting and mailing the written notice.

G. Authorization. The City Manager or designee shall conduct the hearing on the date, time and place provided in the written notice. All persons desiring to participate shall be given the opportunity to speak and present evidence. The City Manager shall base his decision on the following criteria:

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the travel trailer(s) will not be substantially injured.

2. Intent of General Description: That the location of the travel trailer(s) is consistent with the intent and purpose of the particular location to promote public health, safety and general welfare.

3. That the granting of the use is in substantial compliance with this code.

The City Manager may approve or disapprove the use or provide for additional conditions upon which the use may be permitted, including but limited to providing for screening. All decisions shall be reduced to

writing. No owner or occupant of a travel trailer shall permit such travel trailer to continue to be located on any tract of real property in the City without having a duly authorized and current permit. Any aggrieved person has the right to file a written appeal of the decision of the City Manager to the City Council; provided such written appeal shall be filed within five (5) days from the date of the City Manager's decision. Such written appeal shall be filed with the City Clerk, who shall place the item on the next regularly scheduled meeting. The City Council's decision shall be final.

H. Other Regulations. All connections to the municipal water and sewer services and electrical services shall be made prior to any such travel trailer being occupied. No travel trailer shall be occupied unless connected to the municipal water and sewer services and electrical services. All travel trailers shall be placed on a permanent surface and meeting the same standards as provided in Section 12-505C6d. Each trailer shall have at least one (1) permanently surfaced off-street parking space no less than two hundred (200) square feet in area. If natural gas is connected it shall be designed such that the connection between the travel trailer and gas service line will not occur underneath the travel trailer.

I. Permits, fees, and inspections. Prior to the location of any travel trailer onto any real property permitted under the foregoing process in the corporate city limits, a permit shall be secured and a fee paid.

1. Permit. The owner, occupant, or mover shall apply for a travel trailer hookup permit from the City Manager or designee whenever locating a travel trailer onto a property permitted pursuant to the use by review process.

2. Fees. The applicant shall submit a fee of twenty-five dollars (\$25.00) annual fee (initial and subsequent) for a travel trailer hookup permit. This fee shall cover all required inspections.

3. Inspections. The permit holder shall notify the City Manager or designee, who thereafter shall cause to be made an inspection, upon completion of the following items:

a. Water Sewer and gas hookups (if any), according to the municipal or any other applicable code. Each travel trailer space shall be provided with at least a four (4) inch sewer connection at least four (4) inches above the surface of the ground. The sewer connection should be protected by a concrete collar of at least four (4) inches thick and have a minimum outside diameter of twenty-four (24) above the surface of the ground. The sewer connection shall be fitted with a standard ferrule and close nipple and provided with a screw cap. Connection

between the mobile home's drain and the sewer must be watertight and self-draining. Mobile homes with fixtures from which back siphonage may occur shall not be connected to the city water system until defect has been corrected. The water system of the travel trailer shall be connected to the municipal water system. The travel trailer shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times for all bathing, washing, cleansing and laundry facilities. All water piping shall be constructed and maintained in accordance with state and local law. The water piping system shall not be connected with non-portable or questionable water supplies and shall be protected against the hazards of backflow or back-siphonage. All water connections shall be weather tight.

b. Electrical hookup, according to the municipal or any other applicable code.

4. At all times that a travel trailer is occupied pursuant to this Article and as a part of the initial and subsequent permitting process, the owner or person in lawful control of the real property shall ensure that there is maintained a general liability policy of insurance in the minimum aggregate amount of \$1,000,000.00 protecting the general public from any liability that may be occasioned by the location and occupancy of the travel trailer, including property damage and injury to persons, including death. A certificate showing that such coverage is in full force and effect shall be on file at all times in the Office of the City Clerk and any termination, amendment, cancellation of such insurance coverage must be proceeded with at least ten (10) days written notice to the City Clerk.

5. Expiration. The travel trailer permit shall expire upon the removal of the travel trailer and upon each annual expiration.

J. Reserved.

K. No permanent structure or addition shall be permitted to be constructed or placed on any real property or lot permitted for travel trailers pursuant to this Article.

L. Violations of this Section may be enforced pursuant to the same regulations as provided in Section 12-509 for violations.

Section 12-513 REPLACEMENT OF MANUFACTURED OR MOBILE HOMES.

If a manufactured or mobile home is lawfully permitted on a tract within the City, by either permit, license or as a non-conforming use, such manufactured or mobile home may be removed and replaced by another manufactured or mobile home, respectively, provided that the replacement

residence is not older than five (5) years from the date that it is sought to be set, is placed in conformance with all appropriate setbacks and other municipal ordinances and an application is filed with the City Manager who shall review the facts and determine whether the replacement residence shall be so permitted. Any denial can be appealed to the City Council. The purpose of this section is to improve the aesthetics of the community and the City Manager's decision shall be primarily based on whether the replacement residence promotes such purpose. Any replacement residence permitted hereunder shall thereafter conform to the regulations for the district in which such replacement residence was placed. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. No person shall replace a manufactured, modular or mobile home without having filed an application and receiving the approval of the City Manager or the City Council.

SECTION 12-514 LOCATION, SPACE, AND GENERAL LAYOUT OF MOBILE HOME PARKS AND TRAVEL TRAILER PARKS.

- A. Parks shall be of three (3) types:
 - 1. Mobile home parks;
 - 2. Travel trailer parks; and
 - 3. Mixed mobile home and travel trailer parks.

No travel trailer shall be located in a mobile home park. No mobile home shall be located in a travel trailer park. In a mixed park, separate areas shall be reserved for mobile homes and for travel trailers; no mobile home shall be permitted in the travel trailer sector, and no travel trailer shall be permitted in the mobile home sector.

B. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply. All such mobile home parks shall be in areas free from marshes, swamps, or other potential breeding places for insects or rodents.

C. The minimum area of any park shall be ten (10) acres. However, parks in existence on the effective date of this Article, can continue to operate with less than ten (10) acres in area; but if the park is to be expanded, it must at that time have a minimum area of ten (10) acres and expansion requirements are as set out for new developments.

D. Intensity of development shall be limited to no more than nine (9) mobile homes per gross acre for a mobile home park and no more than thirteen (13) travel trailers per gross acre for a travel trailer park. Area used for sewage treatment facilities shall not be included in density computations. Mobile home spaces shall be at least thirty (30) feet wide where pads are closest to driveways. Travel trailer spaces shall be at least twenty-five feet wide where travel trailers are located closest to the driveway.

E. It is unlawful to locate a mobile home or travel trailer less than twenty-five (25) feet from any public street or highway, or so that any part of such mobile home or travel trailer will obstruct any roadway or walkway in a mobile home park.

F. Every mobile home space and travel trailer space shall be clearly defined. Mobile homes and travel trailers shall be parked in such spaces that at the nearest point they shall be at least ten (10) feet from any other mobile home or travel trailer.

G. All mobile home spaces shall abut upon a sealed-surface driveway of not less than twenty (20) feet in width if on-street parking is prohibited and twenty-five (25) feet in width if on-street parking is permitted on one side of the street only. Driveways must have unobstructed access to a public street or highway.

H. In mobile home parks or travel trailer parks existing at the effective date of this Article parking on or adjacent to the street within the park is permissible so long as it does not obstruct free movement of traffic. Whether or not a safety hazard exists is a question to be determined by the City Manager, with final appeal to the city council. If, upon final appeal before the city council, it is determined by the city council, that a safety hazard does in fact exist, the mobile home park or travel trailer park concerned will be required to comply with the last sentence of this subsection. In new mobile home parks at least two (2) clearly defined parking spaces will be provided for each mobile home space wither on or adjacent to the mobile home space. In new travel trailer parks at least one parking space shall be provided for each space either on or adjacent to the space.

I. All driveways and walkways within a park shall have at least four (4) inches of concrete with roadway having curbing and proper drainage.

J. Outside drying spaces or other clothes drying facilities shall be provided in every mobile home park or travel trailer park. Mobile home parks shall have at least one hundred (100) linear feet of clothes drying lines or one mechanical clothes drying unit in good condition; mechanical units shall be located in a service building. Travel trailer

parks and mixed parks shall have at least twenty-five (25) linear feet of outdoor clothes drying line for each travel trailer space, or one mechanical clothes drying unit for the first ten (10) travel trailer spaces, or any fraction thereof, and an additional unit for each ten (10) additional travel trailer spaces or any fraction thereof.

K. It is unlawful to permit a mobile home to occupy a travel trailer space, a travel trailer to occupy a mobile home space and for any mobile home or travel trailer to be located in a park unless in a designated mobile home or travel trailer space.

L. New mobile home parks should abut and have their major means of ingress and egress on, at least a secondary thoroughfare. Travel trailer parks and mixed parks shall abut and have their major means of ingress and egress on, at least a primary thoroughfare.

M. All mobile home parks shall have and maintain a buffer planting strip, not less than three (3) feet in width, along all park boundaries not bordering a street. Such strip shall consist of not less than one row of shrubs, spaced not more than eight (8) feet apart which grow to a height of five (5) feet or more after one full growing season and which will eventually grow to a height of not less than twelve (12) feet.

N. In all mobile home parks, at least fifteen percent (15%) of the gross area shall be developed into an acceptable recreation and playground area, and the area shall be adequately enclosed.

Section 12-515 REPLACEMENT OF MOBILE HOMES.

If a mobile home is lawfully permitted on a tract within the City, by either permit, license or as a non-conforming use, such mobile home may be removed and replaced by another mobile home, respectively, provided that the replacement residence is not older than five (5) years from the date that it is sought to be set, is placed in conformance with all appropriate setbacks and other municipal ordinances and an application is filed with the City Manager who shall review the facts and determine whether the replacement residence shall be so permitted. Any denial can be appealed to the City Council. The purpose of this section is to improve the aesthetics of the community and the City Manager's decision shall be primarily based on whether the replacement residence promotes such purpose. Any replacement residence permitted hereunder shall thereafter conform to the regulations for the district in which such replacement residence was placed. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the

district in which it is located. No person shall replace a mobile home without having filed an application and receiving the approval of the City Manager or the City Council.

ARTICLE 6

OIL AND GAS REGULATIONS

Section 12-601 OIL, GAS AND OTHER MINERALS.

It is unlawful and an offense for any person, firm, corporation or association hereafter to do or perform, or cause to be done or performed, any work or labor of any kind upon or in connection with the drilling, mining or production of oil, gas, or other minerals within the corporate limits of the city except as permitted under the provisions of this chapter.

Section 12-602 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them herein:

1. "Blow-out preventer" means a mechanical, hydraulic or pneumatic or other device, or combination of such devices, secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith which completely closes the casing and is designated for preventing blow-outs;

2. "City inspector" means all officers of the city who have responsibility for enforcing this code, or their duly authorized representatives;

3. "City planning staff" includes, but is not limited to, the City Manager, the city attorney, the city building inspector, the city fire chief, and the city council;

4. "Corporation commission" means the Corporation Commission of the State of Oklahoma;

5. "Disposal well" means any well drilled or actually used for injection of saltwater or other substances into the earth at a point other or different than the point of extraction or production thereof from the earth;

6. "Drilling" means digging or boring a hole in the earth for the purpose of exploring for, developing or producing oil, gas and other hydrocarbons. Drilling includes all operations through the completion of a well;

7. "Drilling site" means the premises used during the drilling, maintaining, operating and producing of a well or wells located thereupon, and

8. "Oil or gas well" means any well drilled, operated, or maintained for the production of oil, gas, casing head gas, or any of them or their by-products or derivations.

Section 12-603 DRILLING PERMIT, FEE.

A. It is unlawful for any person to drill or to maintain and operate any oil, gas or disposal well within the corporate limits of the city without first having obtained a permit to do so as hereinafter provided, or without paying the drilling fee. A permit issued under the provisions of this Section shall expire six (6) months after the date of issuance thereof, unless operations for the drilling of an oil, gas or disposal well have been commenced on the land described in the permit prior thereto.

B. Prior to drilling any oil, gas or disposal well, a drilling permit shall be issued and a drilling permit fee shall be charged as set by the city.

Section 12-604 PERMIT APPLICATION.

A. Every person, firm, corporation or association desiring to drill, maintain, or operate any oil, gas or disposal well within the city, shall file an application in writing upon the form required by the city inspector and signed by the applicant or his agent authorized to sign the same. Such application shall specify the quarter Section, township, and range, as well as the location within the quarter Section thereof so as to identify the well location within a particular ten (10) acre tract. Attached to each application shall be the certificate of a bonded abstractor listing the names and mailing addresses, as reflected by the current year's tax rolls in the office of the county treasurer, of all persons required to be notified by mail of the public hearing herein.

B. Should a change in ownership of the oil, gas, or disposal well occur after a drilling permit has been issued, the drilling permit as issued shall be considered to be transferrable to the person, firm, corporation or association purchasing and taking over operation of the oil, gas, or disposal well, provided that the person, firm, corporation or association meet and comply with the provisions of this chapter to include, but not limited to, those provisions relating to bonds and insurance required in Section 12-610 of this code.

C. If the holder of a permit fails to comply with any provision, restriction or regulation of Sections 12-601 et seq. of this code, as applied to the permit, the permit issued to such holder may be revoked by the city council after giving written notice to such holder an opportunity to show compliance with all lawful requirements for the retention of the permit. Any such holder whose permit has been revoked may apply for a new permit upon a showing of compliance with all requirements of the Sections 12-601 et seq.

D. The city is not a guarantor of the competence of the permittee as to drilling operations. A permit is not an expression by the city that any proposed oil operation can be done with safety to the operator or other persons or property; all of which risks are assumed by the permittee.

Section 12-605 SITE PLAN TO BE SUBMITTED.

A. In the interest of protecting the health, safety and welfare of the inhabitants of the city, and in order, to protect the quality of residential life within the city, the city shall not issue a drilling permit as defined by this chapter until the city council has reviewed and approved the drill site development plan in accordance with the following regulations:

1. The individual, firm, corporation or association making application shall prepare and submit to the city two (2) drill site development plans, the first of which shall be a drill site development plan covering and including that phase of the oil well operation including drilling operations and the second of which shall cover the completed or producing well phase, and which site development plans shall contain the following information:

- a. Written legal descriptions;
- b. Scale drawings of the property and appropriate dimensions;
- c. Scale, north arrow, date, legend;
- d. Name, address and telephone number of property owner and applicant;
- e. Location and size of existing easements, utilities and rights-of-way;
- f. Location and dimension of all vehicular entrances, exits and drives;
- g. General drainage system

h. Size of site;

i. Location of all physical facilities to include proposed wells, structures, portable toilets, and relationship to all buildings within a six hundred sixty (660) foot radius;

j. The site plan shall contain a statement describing all pollution prevention equipment to be utilized; it shall be the policy of the city to require blow-out prevention devices on every drilling operation covered hereunder; and

k. Location of all pits, portable or earthen.

B. The city council shall hold a public hearing for the purpose of reviewing and determining whether to approve or deny the drill site development plan as submitted. Notice of the public hearing shall be given by publication in a newspaper of general circulation within the city not less than twenty (20) days prior to the hearing. In addition, notice of the public hearing shall be given not less than twenty (20) days prior to the hearing by mailing written notices to all owners of property within a three hundred (300) foot radius of the exterior boundary of the drilling site. At the time of the public hearing, the city council shall have the authority, when in interest of the public peace, health and safety, to amend the plan as originally submitted. The drill site plan shall then be considered to be approved as amended or denied and containing those additional restrictions and regulations as placed on the plan by the city council.

C. The land within the area covered by the drill site development plan shall be developed only in accordance with the drill site development plan as finally approved by the city council. Any change, erasure, modification, revision, or deviation from that plan shall be considered invalid and a violation of the provisions of the article unless the change, erasure, modification, revision or deviation shall have first been submitted to the city and approved according to the above procedure. It is further provided that should a change in property ownership occur after approval of the drill site development plan, the drill site development plan as approved by the city council shall be honored and maintained in its entirety.

D. Prior to operation and maintenance thereof, the applicant having made application, shall prepare and submit to the city a second drill site development plan which shall cover the completed or producing well phase of the well operation, and which drill site development plan may be the original drill site development plan as submitted to the city with amendments made thereto, or may be a new and original drill site development plan, however, in either case, the drill site development plan shall contain the following information:

1. General location of tank batteries and size of tank battery site;
2. Any oil, gas or water lines to be utilized;
3. Location of ingress and egress to be utilized by applicant and to include all vehicular entrances, exits and drives;
4. Type of screening devices or construction to be utilized around the pumping site, which screening shall be required to be of such type so as to discourage access, entry, or climbing so as to endanger life and security; all screening shall be required to meet the minimum screening standards of the city zoning code; the gates to any oil operation shall be kept locked with a padlock that cannot be cut with common bolt cutters at all times during which the oil operation site is unattended;
5. The location and size, which shall be not more than twenty-four (24) inches by thirty (30) inches, of a sign which shall contain the name, address and emergency phone number of the oil producing company, and which sign shall be posted at the drilling site for use in any emergency notice which might arise;
6. The filing of the second drill site development plan shall not be required of wells heretofore in operation prior to February 1, 2012.

Section 12-606 REVIEW OF SITE PLAN.

A. The planning staff within fifteen (15) days of receipt, or at next regular scheduled council meeting, whichever is longer, shall review and consider the second drill site development plan as submitted. Upon receipt of the second drill site development plan, the city planning staff shall inform all adjacent property owners of the filing of the second drill site development plan. At the time of the consideration, the city planning staff shall have the authority, when in interests of the public peace, health and safety, to amend the plan as originally submitted prior to granting their approval. The site development plan shall then be considered to be approved as amended and containing those additional restrictions and regulations as placed on the plan by the planning staff. The site development plan shall then be considered to be approved and amended, unless a protest is filed with the city building inspector within seven (7) days of the decision complained of, in which case the protestant shall have the right to appeal to the city council.

B. If both the first drill site development plan and the second drill site development plan are submitted at the same time, both plans shall be considered by the city council at the same public hearing.

Section 12-607 INSPECTION.

For purposes of this Section, the city or its authorized representatives may inspect any well operation at any time after issuance of a drilling permit for purposes of insuring conformance with the requirements of this chapter. Any applicant for a drilling permit hereunder shall be deemed to have granted the agents of the city the right of entry onto those properties covered by the drilling permit for the purposes of carrying out the inspections as required by the city and which shall be made by the city inspector or an authorized representative of the city code enforcement division and are:

1. An inspection to be made during drilling operations and which inspection shall cover those facets of the drilling operations site plan;

2. An inspection to be during pumping operations and which inspection shall cover those facets of the pumping operations covered by the pumping operation site plan; and

3. An inspection following removal of the well and equipment, which inspection shall be to ensure that the land is returned as nearly as practical to its previous original topography.

The inspection fee shall be as set by the city council by motion or resolution.

Section 12-608 RULES ADOPTED.

There is hereby adopted by the city the rules and regulations of the corporation commission of the state, including but not limited to the general rules and regulations of the oil and gas in the office of the city clerk of the city and the same are adopted and incorporated as fully as if set out at length herein.

Section 12-609 POLLUTION, CLEAN-UP.

A. The premises upon which any oil, gas, or disposal well is drilled, operated, or maintained shall be kept free of all accumulations of rubbish, litter, unused equipment, or discarded materials, and other wastes insofar as the same may be reasonably done in the conduct of operations covered by this chapter.

B. All lands upon which a drilling operation is or has been operated shall within a reasonable length of time, not to exceed one year, be returned, as nearly as practicable to the previous original topography and natural state unless the applicant has paid damages for removal for anything other than ground cover, in which case the

applicant must, in lieu of returning the land to its natural state and topography, provide ground cover in the interest of abating erosion thereof.

Section 12-610 SPACING REQUIREMENTS.

No well or drilling operation shall be located, drilled or operated within four hundred (400) feet of any residential dwelling, public building, hospital, clinic or any building located on a property being used for a commercial or industrial use, located within the corporate limits of the city. It is further provided, however, that in the event permission is secured from one hundred percent (100%) of the owners thereof, which permission shall be evidenced by the signing of a verified petition consenting to and approving of the drilling, operation and location of such well, which petition shall be filed with the first drill site development plan, such well in that case may not be located closer than one hundred fifty (150) feet from any of the above named structures. This amended provision shall not apply to any well or drilling operation that is in full compliance with the terms of this subsection as of February 1, 2012.

Section 12-611 BONDS AND INSURANCE REQUIRED.

At the time of filing such application for a drilling permit as required above, the applicant shall file with the city clerk for the city a copy of their certificate of insurance issued by some corporate insurance company licensed to do business within the state, evidencing current insurance of the owner, his driller, agents, and employees conditioned for the payment of all damages due to injury to persons or damage to property resulting from the drilling operations, or maintenance of the proposed well or any structure, machinery, equipment, pipelines, or appurtenances used in connection therewith, in an amount not less than One Million Dollars (\$1,000,000.00). The policy shall further provide that it cannot be canceled until thirty (30) days written notice of such cancellation shall have been given to and filed with the city clerk of the city. Such applicant shall further deposit with the city clerk cash or corporate surety bond in the sum of Fifty Thousand Dollars (\$50,000.00) executed by some insurer licensed to do business within the state, conditioned to assure restoration of the land and plugging of the well or wells upon its abandonment according to the rules and regulations and under the supervision of the Corporation Commission and the ordinances of the city. Such sum shall be forfeited to the city in the event of any substantial violation or non-compliance by the owner, driller, their agents or employees, with the provisions of this chapter pertaining to the abandonment of the well; otherwise, the same shall be refunded or returned in full to the applicant upon abandonment of the well operation.

Section 12-612 ANNUAL INSPECTION PERMIT, FEE.

A. Annual inspection permits for the operation and maintenance of all completed and operating oil, gas or disposal well, now existing or hereafter drilled, or hereby required, and shall be issued upon the payment of the annual inspection fee provided for herein. Such annual inspection fee shall be paid on or before July 1, of each year of operation after the issuance of the drilling permit, or, if no such permit was required or obtained, within sixty (60) days after the initial effective date of these regulations.

B. No person shall operate or maintain any oil, gas or disposal well in the city without obtaining an annual inspection permit and paying the annual fee.

C. Upon payment of the annual inspection fee, and upon meeting the drill site development requirements contained in this chapter, if the drill site development requirements contained in this chapter, if the drill site development plan is required, the city clerk shall issue the annual permit contained herein.

Section 12-613 CORPORATION COMMISSION RULES AND REGULATIONS.

The applicant for any such drilling permit or annual inspection permit, the drilling contractor and their agents or employees shall comply with all orders, rules and regulations of the Corporation Commission of the State of Oklahoma where applicable, including but not limited to, all rules and regulations of the commission with respect to drilling, plugging and abandonment of such wells.

Section 12-614 RESERVED.Section 12-615 ADDITIONAL CONDITIONS AND REQUIREMENTS.

In addition to the conditions applying to oil well drilling operations contained herein, the city council hereby declares that in the interest of protecting the people of the city and the use and enjoyment of their property and providing for their comfort, health and safety, and general welfare, the following conditions and restrictions are adopted:

1. That all well operations which are placed upon the pump shall be powered by electricity so long as electricity is available. All permanent equipment shall be painted, where possible, and kept in a neat condition. All production operations shall be as free from noise as possible with modern operations;

2. That all power operations other than drilling and pulling units shall at all times be carried on only by means of electrical power, which power shall not be generated on the drilling site;

3. All completion and routine maintenance will be done during daylight hours only except in emergency;

4. That no sign shall be constructed, erected, maintained or placed on the premises or any part thereof, except those required by law or this code to be displayed in connection with the drilling, maintenance, or operation of the well;

5. That a blow-out prevention device shall be utilized, when practical, at any time the well is open for completion, routine maintenance, termination or plugging operations. If it is deemed impractical to utilize a blow-out prevention device, then and in that event, other blow-out prevention methods and techniques shall be utilized at any time the well is open; and

Section 12-620 LOCAL REGULATIONS IN ADDITION

The following rules and regulations do not replace the present rules and regulations of the Oklahoma State Corporation Commission governing oil field operations but are in addition to those rules. Full compliance with these rules and regulations is a condition precedent to the right to use any public property including but not limited to streets, roads, alleys, or rights-of-way or any other publicly owned real property.

Section 12-621 PROHIBITED LOCATIONS

Except as may be permitted by written agreement by the City and based on special conditions, no well-prospecting for oil, gas or any disposal well shall be permitted within 660 feet of any City water production well.

Section 12-622 REGULATIONS

Any well permitted in the City of Cherokee shall comply with the following rules:

A. The design criteria for all wells shall consider all pertinent factors for well control including formation pressures and casing setting depths such that the well bore can be maintained under control at all times. The application for permit to drill shall include the information indicated by Attachment A, which Attachment A is no file in the Office of the City Clerk and is incorporated herein by reference.

A new permit is required in order to change the classification of a well, for example, from producing well to injection well.

B. Prior to the commencement of any drilling operation, an artificial barrier shall be constructed completely surrounding the well site no closer than fifty (50) feet from the well bore. The top of the artificial portion of the barrier to be constructed down drainage from the well shall be level at all points, at a compacted height of not less than two (2) feet above the ground level at the well bore, in order that any deleterious material from the well or operations thereon would be trapped and stored before such material can enter the drainage to the reservoir. An adequate diversion ditch or dike shall be constructed across and around the uphill edge of the well site so that no surface drainage water can enter the area of the well location. Any fluid trapped within the well site shall be immediately pumped into steel tanks for storage and removal.

C. In addition, the permittee or applicant shall submit a Deleterious Substance Spill Contingency Plan (hereinafter the "Plan") that will be followed in reporting, cleanup, and prevention of the spread of any pollution resulting from a deleterious substance spill which might occur during drilling or production activities. The Plan shall:

1. Include the description of procedures, personnel, equipment, and materials which will be used in combating any such spill.

2. Address two degrees of response effort (1) a deleterious substance spill resulting in pollutants being carried outside the dike surrounding the well or facility site, and (2) a deleterious substance spill resulting in pollutants being carried into the City's aquifer.

3. Include provisions to assure that full resource capability is known and can be committed during a spill, including the identification and inventory of applicable equipment and materials which are available locally and regionally.

4. Include the establishment of procedures for the purpose of early detection and timely notification of a spill, including a current list of names, telephone numbers and addresses of the responsible persons and alternates on call to receive notification of a spill, and the names, telephone numbers and addresses of regulatory organizations and agencies to be notified when a spill is discovered.

5. Include pre-designation of a spill response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

6. Include provisions for disposal of recovered spill materials.

Approval of the Plan by the City Manager shall be a requirement for obtaining a permit. The Plan shall be reviewed annually by the permittee and revised as appropriate to compensate for any changes in conditions at the well or facility site or at the area to be protected. The permittee shall submit a Plan or revised plan to the City Manager on an annual basis. Upon written agreement by the City, the Oklahoma Corporation Commission's UPCC Plan can be substituted for the Plan so long as it has been appropriately engineered.

D. Drilling mud operations shall be conducted in steel tanks, and the drilling mud shall be removed from the property immediately upon completion of the well. Concrete shale removal tanks may be substituted for steel tanks. Concrete shale removal tanks shall be permitted to be constructed at grade upon submission of plans and approval of design of such tanks by the City Manager.

E. All casing shall meet the American Petroleum Institute (API) specifications, including:

1. Surface casing shall be set at a minimum depth as defined by the Oklahoma Water Resource Board or at a greater depth if required by the Oklahoma Corporation Commission or the City Manager in order to protect both fresh water-bearing strata and to remove any possibility of contaminating fluids or gasses reaching the surface through vertical fracture systems or along fault planes. Surface casing shall be constructed of steel casing grade J-55, K-55 or higher grade and shall have a minimum burst strength rating of 2940 PSI. The casing shall be suspended off bottom while the cement is placed and allowed to set. The cement shall be circulated to the surface and allowed to set under pressure for at least twelve (12) hours or any longer time required for the cement to reach a compressive strength of 500 PSI before re-entering the well bore. The cement is considered to be under pressure if one or more float valves are used and are shown to be holding or if other means of holding pressure is used. If cement is not circulated to the surface, the cement shall be permitted to set for eighteen hours, and small diameter pipe shall be run down the outside of the surface casing to the top of the hardened cement. Cement shall be pumped down the small pipe to fill the annulus to the surface. The casing shall be pressure tested by applying a surface pressure of 1,500 PSI or 0.2 PSI per foot of vertical depth whichever is greater.

2. Production casing and all related equipment items such as the wellhead, valves, etc., shall have a working pressure rating sufficiently in excess of the highest formation pressure encountered in the well. This string of casing shall be installed before completing the well for production. The casing shall be cemented in a manner to isolate

all potentially producible hydrocarbon zones, and the annular space shall be filled with cement at least 500 feet above the uppermost producible hydrocarbon zone. When a liner is used as a production string, the seal between the liner and the next larger casing string shall be tested by a fluid entry or pressure test to determine whether a seal between the liner and the next larger string has been achieved. The test results shall be recorded in the Driller's log. Prior to drilling the plug after cementing and prior to completing the well, the production string shall be tested to 1,500 PSI or 0.2 PSI per foot of vertical depth, whichever is greater, except that eighty percent (80) of the internal yield pressure of the casing shall not be exceeded.

3. Prior to the running or cementing of each casing string, the Operator shall notify the City Manager of his intentions to set and to cement casing. Such notice shall be given sufficiently in advance of such operation so as to permit the City Manager to be present when said casing is run and cemented if he so elects.

F. Blowout preventer and related well-control equipment shall be installed, used and tested in a manner necessary to prevent blowouts. Prior to drilling below the surface casing and until drilling operations are completed, blowout prevention equipment shall be installed and maintained ready for use as follows:

1. Before drilling below the surface casing strings, the blowout prevention equipment shall include a minimum of one remotely controlled, hydraulically operated blowout preventer with a working pressure which exceeds the maximum anticipated surface pressure. The blowout preventer shall consist of a minimum of one annular type. A choke line and manifold and a separate kill line with working pressures at least equal to 3000 PSI pressure shall be installed ready for use. A fill-up line shall also be installed ready for use, and the fill-up line shall be located above the annular BOP.

2. The Blowout Preventer shall be tested as follows:

- a. Blowout preventer shall be tested with water to the rated working pressure of the stack assembly. The pressure test required for blowout preventer installed on surface casing shall be 1500 PSI.
- b. Pressure tests shall be performed:
 - i) When a BOP is installed.
 - ii) Before drilling out after each string of casing is set.
 - iii) Following repairs that require disconnecting a pressure seal in the assembly.
 - iv) Not less than once each 45 days.

c. All pressure tests shall be recorded in the Driller's log.

d. While drill pipe is in use, annular type preventer shall be actuated on the drill pipe once each week. All actuation of the blowout preventer shall be recorded in the Driller's log.

3. A blowout prevention drill shall be conducted each week for each crew to ensure that all equipment is in working order and to ensure that crews are professionally trained to carry out emergency duties. The City Manager may require a blowout prevention drill at any time, well bore conditions permitting, after conferring with the Operator's representative.

4. All BOP drills shall be recorded in the Driller's log.

5. Blowout preventer shall be installed prior to working-over an old well or testing new zones. If tubing is to be pulled from or installed in a producing well, blowout preventer and related equipment shall be installed and operative. G. The use of mud and the testing and control of mud properties shall be such as are necessary to maintain pressure control of the well at all times. Quantities of mud and/or mud materials sufficient to ensure well-control shall be readily available for use at all times. Before starting out of the hole with drill pipe, the mud shall be properly conditioned by circulating with the drill pipe near bottom until the annular volume is displaced and the properties of the return mud are within the normal range. When removing drill pipe from the hole, the annulus shall be filled with mud before the mud level drops 100 feet below the flow line. As a minimum, the hole shall be filled every five (5) stands of drill pipe and every stand of drill collars. The number of stands of drill pipe and drill collars that may be pulled before filling the hole shall be determined and posted on the rig floor. The number of barrels of mud (and the number of pump strokes) required to fill the hole corresponding to the determined number of stands of drill pipe and drill collars shall also be posted.

H. In the event any well blows out or becomes out of control, the Operator shall immediately notify the City Manager by telephone or personal contact, and the City Manager and his agents shall have full access to the well site and surrounding area. All condensate, oil, mud, salt water, and other wastes from the well shall be blocked off and shall not be permitted to enter the City's water aquifer. The operator will anticipate the worst possible blowout or overflow conditions and shall have readily available at all times sufficient materials and equipment to prevent pollutants from entering the reservoir under any conceivable conditions. The permittee conducting operations shall be solely responsible for all damages and shall restore the surface to its original condition.

I. Drill stem testing is permitted only during daylight hours. Fluid removed from the well during testing must be flowed or pumped into steel pits or tanks and promptly removed from the location at the conclusion of testing. The formation fluids in the hole shall be circulated or reversed-out prior to removing drill stem test tools from the hole.

J. From the time drilling operations are commenced until the well is completed or abandoned, a trained member of the drilling crew, tool pusher, or operator's representative shall maintain rig floor surveillance at all times unless the well is secured with cement plug(s), packer, or blowout preventer.

K. The following information shall be posted on the rig floor at all times after drilling is commenced.

1. Procedure for closing-in the well using blowout preventer when:

a. the operation is drilling or circulating with the bit on bottom, and

b. the operation is tripping the drill string.

2. Pre-recorded data which includes the items indicated in Attachment B.

L. Posted data must be revised as conditions change. The circulating pump rates and pressures must be rechecked and the posted data revised at least once each twenty-four (24) hour period when drilling.

M. The City Manager shall have access to all information pertaining to a well drilled under these rules.

N. The permit to drill does not include the right to convert the well from a producing well to an input well (injection well, enhanced recovery well or disposal well, etc.).

O. Upon completion of a well, all oil, salt, or other contaminated soil shall be physically removed from the area.

1. If the well is completed as a dry hole, the area shall be restored to normal and re-seeded to prevent erosion, except that the drilling pad and/or access road may be left in place upon written request by the surface owner.

2. No drains shall be placed in the dike wall and any existing drains shall be removed. Any rainwater or other substance present inside the diked area and outside the tanks shall be promptly removed.

P. The production facility shall consist of piping from the well bore to the tank battery, the tank battery, associated equipment and applicable lease roads. Prior to commencement of operations, a spill prevention control and countermeasure's plan shall be developed pursuant to 40 CFR, Part 112, and submitted to the City Manager for review. Approval will be received in writing prior to commencement of production activity.

Q. Upon completion of a well, all lines located outside a diked area, including the flow lines, gas lines, water lines, and electric lines shall be buried to a minimum depth of three (3) feet. Unless local codes, or state or federal regulations specify otherwise, all pipe lines shall:

1. Be designed, installed and maintained in accordance with all local codes, state and federal regulations, and API standards and recommended practices.

2. Be designed for a minimum of 150 percent of the maximum anticipated operating pressure.

3. Be effective corrosion control measures shall be employed for both internal and external corrosion, when pipe lines are constructed from steel materials. Without regard to the pipe material, when a pipe line is permitted to deteriorate to the point where leaks have occurred or there is a high probability of leaks occurring, in the City Manager's opinion, with resulting pollution, the City Manager shall require the pipe line to be replaced.

4. Be pressure tested to the design working pressure using water after being placed in the trench, but before being backfilled. The test leaks shall be corrected and the test repeated until successful. After being covered, all ditch rights-of-way shall be planted, sodded, or seeded to restore grass.

5. Clearly indicate their routes with permanent markers. Signs shall be located at each side of any roadway rights-of-way which the pipeline crosses and at any property lines crossed by the pipeline.

R. All leaking pumps, stuffing boxes, lines, tanks and connections shall be promptly corrected and shall not be used while leaking. Drip pans shall be installed where minor leaks are likely to occur.

T. All oil, water or deleterious substances from wet strings of tubing shall be drained into steel tanks.

U. All oil cellars and oil sumps shall be promptly pumped out.

V. All leases shall be kept clean of refuse and other deleterious matter.

W. All ditches shall be kept clean and in a good state of repair.

X. Service roads shall be constructed and maintained to control erosion. Upon abandonment of the well, all access roads and locations shall be returned to the original condition. All oil or salt-saturated material shall be physically removed from the property and grass planted in the entire area in order to prevent erosion of the area and consequent silting of the reservoir.

Y. A protective fence shall be installed around surface facilities when required by the City Manager. The City Manager shall specify the type of fence required for each facility.

Z. The plugging and abandonment of all wells shall be in accordance with the rules and regulations of the Oklahoma State Corporation Commission and the City of Cherokee, Oklahoma.

AA. The City Manager shall have access to the well site for inspection of compliance with these rules. Service companies, including drilling contractors and their employees and agents, shall keep reports of all operations conducted by them and such reports shall be available for inspection by the City Manager. If a violation is found and if corrective action is not taken immediately, the company conducting the operation shall be notified and shall be subject to work stoppage until the unsatisfactory condition or practice has been corrected.

BB. The operator shall notify the City Manager sufficiently in advance as to permit the City Manager to be present when the following work is performed:

1. Running and cementing of surface casing.
2. Clean up of any spillage of oil, gas, or salt water.
3. Running and cementing of production casing.

CC. The operator shall perform tests as may be required by the City Manager to ensure that the fresh water bearing zones are not being contaminated by the well. These tests may be required annually or whenever there are indications that the well is causing contamination of the fresh water bearing zone. Testing may include but shall not be limited to pressure testing of injection wells and pressurized lines and

the analysis of water samples. The cost of such testing shall be borne by the operator of the oil, gas or related wells.

DD. Two (2) groundwater monitoring wells shall be installed in the vicinity of the production facility. The wells shall be two inches (2") diameter minimum and extend through the uppermost saturated zone to the first continuing layer (drill until you hit the first recognized aquifer and screen at that point - approximately twenty (20) feet deep). A well screen shall be installed such that the entire saturated thickness is included. The location of the monitoring well should be such that one is up gradient of the facility and one is down gradient and between the facility and the lake. The new well locations shall be submitted to the City Manager for his approval. The monitoring well shall be sampled initially (before production operations commence) and annually thereafter. The well samples shall be analyzed for the following: Sodium, Chloride and Total dissolved solids. The result of the sampling shall be submitted to the City Manager for review within ten (10) days of the sampling event.

EE. The tubing-casing annulus of every saltwater disposal, injection, or enhanced recovery well shall be pressure tested to a minimum pressure of 1000 PSI annually. This test shall be witnessed by the City Manager.

FF. All oil and water storage tanks installed after the effective date of these rules shall be equipped with aliquid level switches and related equipment necessary to automatically shut-in associated wells and pumping equipment to prevent the overflow of such tanks.

Section 12-623 INSURANCE

As a condition to issuance of any Permit authorized by the governing body of the City of Cherokee, Oklahoma, and in addition to any other insurance required by this Chapter, the operator of all oil, gas, disposal or disposal well or enhanced recovery wells shall first submit proof of insurance which names the City of Cherokee, Oklahoma, and the Cherokee Municipal Authority, as additional insureds, and which specifically provides coverage as follows:

The insureds are hereby indemnified for all losses, costs, and expenses incurred due to contamination of any of the City's water aquifer, whether currently being used or may be used in the future, said indemnification and loss to include, but not be limited to, reimbursement to the insureds for all costs incurred in clean up or containment of any pollution; in restoring the water aquifer and water supply sources to their previous condition; any additional costs of water treatment or other costs incurred to supplement or continue the insureds' water supply; services prior or subsequent to clean up and

restoration; and, any revenues lost by reason of irreparable damage to the water aquifer.

The amount of said insurance shall be \$1,000,000.00 per incident; \$2,000,000.00 aggregate. Said insurance shall be maintained in full force and effect from commencement of any operations on lease premises until the well is plugged and abandoned in accordance with these Rules and any other applicable federal or state rules and regulations, including the entire period during which production activities are conducted. The legal description of the well location shall be specified in the insurance policy, or any endorsement thereto, with respect to each well covered by this insurance. Written notification must be given to the City Clerk of the City of Cherokee, Oklahoma, at least ten (10) days prior to cancellation or termination of any insurance coverage required under the terms of this Section.

Section 12-624 MINIMUM STANDARDS

These rules contain the minimum standards for safety measures for drilling, production, and related operations, and the permit under which these operations are conducted is conditioned upon full compliance with these Rules. Any waiver or variation of or from these Rules may be made only upon written application to and written authorization from the City of Cherokee, Oklahoma, and/or the Cherokee Municipal Authority, as applicable. The City Manager may, if circumstances warrant, require and enforce such other or additional measures as appropriate in order to ensure safe operations and the protection of the City's water aquifer from the risk or danger of pollution and contamination.

Section 12-625 SURVEYOR

When there is a question regarding the location of a well or surface facility which concerns the applicability of these rules, the applicant or owner of the subject well or surface facility shall have a survey performed by a Registered Land Surveyor. The cost of the survey shall be borne by the applicant or owner of the subject well or surface facility.

ARTICLE 7

SIGN REGULATIONS

SECTION 12-701 PURPOSE.

1. Purpose. The purpose of this Article is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

SECTION 12-702 DEFINITIONS.

1. Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

ABANDONED SIGN. A sign structure that has ceased to be used, and the owner no longer intends to use, for the display of sign copy, or as otherwise defined by state law.

ANIMATED SIGN. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

ELECTRICALLY ACTIVATED. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive on-off illumination. For the purposes of this Article, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

2. Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(See ELECTRONIC MESSAGE SIGN OR CENTER)

ENVIRONMENTALLY ACTIVATED. Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

MECHANICALLY ACTIVATED. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and extends beyond the face of an exterior wall of a building but does not include signs as defined herein. See also; "Awning", "Backlit awning", and "Canopy-attached and freestanding."

AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated.

AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. See also; "Wall" or "Fascia sign."

BACKLIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.

BANNER. A flexible substrate on which copy or graphics may be displayed.

BANNER SIGN. A sign utilizing a banner as its display surface.

BILLBOARD. See "Off-premise sign" and "Outdoor advertising sign."

BUILDING ELEVATION. The entire side of a building, from ground level to the roof line, as viewed perpendicularly to the sides of the building.

CANOPY (Attached). A multi-sided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffits of an attached canopy may be illuminated by means of internal or external sources of light. See also, "Marquee."

CANOPY (Freestanding). A multi-sided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffits of a freestanding canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN. A sign affixed to the visible surface(s) of an attached or freestanding canopy. For reference, see Section 12-703.

CHANGEABLE SIGN. A sign with the capability of content change by means of manual or remote input, including signs which are:

1. Manually activated. Changeable sign whose message copy or content can be changed manually.

2. Electrically activated. Changeable sign whose message copy or content can be changed by remote electrical means. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also, "Electronic message sign or center."

COMBINATION SIGN. A sign that is supported partly by a pole and partly by a building structure.

COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN. A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with Section 12-709.2 of this Article.

DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DOUBLE-FACED SIGN. A sign with two faces, back to back.

ELECTRIC SIGN. Any sign activated or illuminated electrically.

ELECTRONIC MESSAGE SIGN OR CENTER. An electrically activated changeable sign whose variable message capability can be electronically programmed.

EXTERIOR SIGN. Any sign placed outside a building.

FACADE. See "Building facade."

FASCIA SIGN. See "Wall sign."

FLASHING SIGN. See "Animated Sign, electrically activated."

FOR SALE SIGN. A temporary sign advertising and item for sale.

FREESTANDING SIGN. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference. See Section 12-703.

FRONTAGE (Building). The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

FRONTAGE (Property). The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

GROUND SIGN. See "Freestanding sign."

HISTORICALLY SIGNIFICANT SIGN. Any sign determined by the Design Committee of *Main Street of Cherokee, Inc.*, to exhibit unique characteristics that enhance the streetscape or identity of a neighborhood and as such contribute to the historical or cultural character of the building, streetscape or the community at large.

ILLUMINATED SIGN. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

INTERIOR SIGN. Any sign placed within a building, but not including "window signs" as defined by this Article. This chapter does not regulate interior signs, with the exception of window signs as defined.

MANSARD. An inclined decorative roof-like projection that is attached to an exterior building facade.

MARQUEE. See "Canopy (attached)."

MARQUEE SIGN. See "Canopy sign."

MENU BOARD. A freestanding sign oriented to the drive-through line for a restaurant that advertises menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.

MULTIPLE-FACED SIGN. A sign containing three or more faces.

OFF-PREMISE SIGN. See "Outdoor advertising sign."

ON-PREMISE SIGN. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

OUTDOOR ADVERTISING SIGN. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

PARAPET. The extension of a building facade above the line of the structural roof.

PERSONAL NOTICE SIGN. A sign erected, maintained or used for the purpose of displaying messages appurtenant to the property on which it is displayed. Such signs include but are not limited to "BEWARE OF

DOG", "NO TRESPASSING" and "NO SOLICITING".

POLE SIGN. See "Freestanding sign."

POLITICAL SIGN. A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

PORTABLE SIGN. A sign not permanently attached to the ground or to a building surface.

PROJECTING SIGN. A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see Section 12-703.

REAL ESTATE SIGN. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

REVOLVING SIGN. A sign that revolves 360 degrees about an axis. See also, "Animated sign, mechanically activated."

ROOF LINE. The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

ROOF SIGN. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference example of a roof sign, and a comparison of differences between roof and fascia signs, see Section 12-703.

SIGN. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

SIGN AREA. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the larger single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of all the area of all faces of the sign. See Section 12-703.

SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements compromising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE. The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. See Section 12-703.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

2. In the case of a sign face with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.

3. In the case of a sign painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

SIGN STRUCTURE. Any structure supporting a sign.

TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

UNDER CANOPY SIGN OR UNDER MARQUEE SIGN. A sign attached to the underside of a canopy or marquee.

V SIGN. Signs containing two faces of approximately equal size erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than 90 degrees with

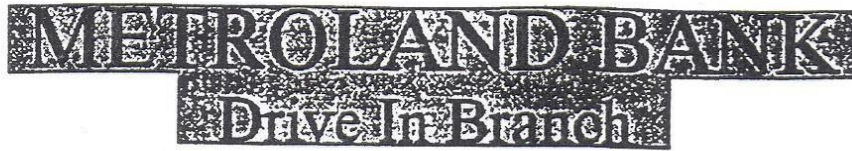
the distance between the sign faces not exceeding 5 feet at their closest point.

WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from a building provided that copy area of such signs remains on a plane that is parallel to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For visual reference and comparison examples of differences between wall or fascia signs and roof signs (See Section 12-703).

WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

SECTION 12-703 GENERAL SIGN TYPES

1. General. Sign types and the computation of sign area of sign area shall be depicted in Figures (1) through (4).

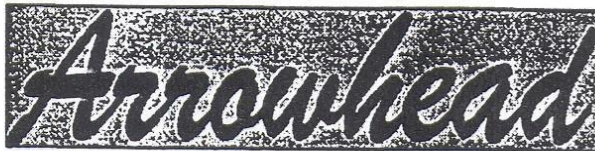


COMPUTE AREA AROUND
COPY ELEMENTS ONLY.

COMPUTE AREA
INSIDE DEFINED
BORDER OR
INSIDE
CONTRASTING
COLOR AREA.



METROLAND BANK
Drive In Branch



COMPUTE SUM OF
AREAS OF INDIVIDUAL
ELEMENTS ON WALL
OR STRUCTURE



IN COMPUTING AREA FOR UPPER
AND LOWER CASE LETTERING,
INCLUDE ASCENDERS OR
DESCENDERS, BUT NOT BOTH.
CALCULATE SUPER ASCENDERS
SEPARATELY AS INDICATED.

SIGN AREA - COMPUTATION METHODOLOGY

FIGURE 4

7. Maintenance, repair and removal. Every sign permitted by this Article shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Article, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this Article, or shall remove it. If within ten (10) days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

8. Obsolete sign copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within thirty (30) days after written notification from the municipal code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located. Historically significant signs are exempt from this provision.

9. Nonconforming signs. Any sign legally existing at the time of the passage of this Article that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

A. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.

B. Any legal nonconforming sign may be rebuilt without increasing the existing height or area if it is damaged or deteriorated but must be removed if the cost of repair or restoration exceeds fifty percent (50%) of the replacement cost of the sign as determined by the code official.

C. Signs that comply with either Subsection A or B above do not need a permit.

SECTION 12-705 EXEMPT SIGNS

1. Exempt signs. The following signs shall be exempt from the permit requirements but must comply with all other provisions of this Article. No sign shall be exempt from Section 12-704.4.

A. Official notices authorized by a court, public body or public safety official.

B. Directional, warning or information signs authorized by federal, state or municipal governments.

C. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

D. The flag of a government or noncommercial institution, such as a school.

E. Religious symbols and seasonal decorations within the appropriate public holiday season.

F. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.

G. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet in area.

H. Historically Significant Signs.

I. Personal Notice Signs.

J. For-Sale Signs

K. Temporary Signs, excepting portable signs which shall require a permit.

SECTION 12-706 PROHIBITED SIGNS

1. Prohibited signs. The following devices and locations shall be specifically prohibited:

A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

B. Except as provided for elsewhere in this Article, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, traffic light poles or any other public facility or structure located within the public right-of-way.

C. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warning from a distance.

D. Portable signs except as allowed for temporary signs.

E. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

1. The primary purpose of such a vehicle or trailer is not the display of signs.

2. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.

F. Signs on vehicles and trailers used primarily as static displays, advertising a product or service, or utilized as storage, shelter or distribution points for commercial products or services for the general public.

G. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purpose of this subsection, "temporarily" means no more than twenty (20) days in any calendar year.

SECTION 12-707 PERMITS

1. Permits required. Unless specifically exempted (See 12-505.1), a permit must be obtained from the code official for the erection and maintenance of all signs erected or maintained within the City and in accordance with the municipal code. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.

2. Construction documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, which may include loads, stresses, anchorage and any other pertinent data. The permit

application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the International Building Code.

3. Changes to signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of moveable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

4. Permit fees. Permit fees to erect, alter or relocate a sign shall be in accordance with the fee adopted by the City of Cherokee by resolution or ordinance duly enacted.

SECTION 12-708 SPECIFIC SIGN REQUIREMENTS

1. Identification signs.

1.1 Wall signs. Every single-family residence, multi-family residential complex, commercial or industrial building, and every permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone may display wall signs on each street frontage subject to the limiting standards set forth:

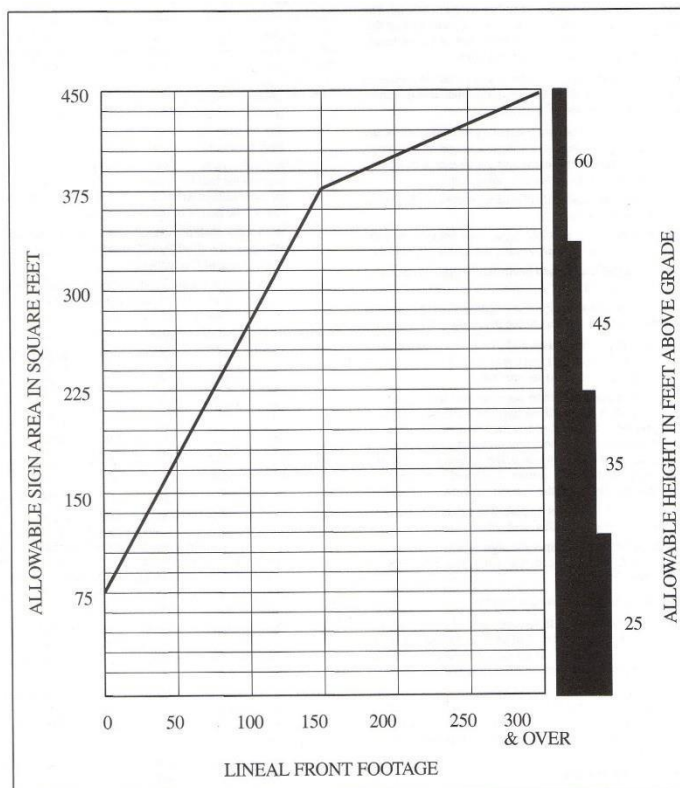
1.2 TABLE 12-347.1.1 IDENTIFICATION SIGN STANDARDS FOR WALL SIGNS

LAND USE	AGGREGATE AREA (Square feet)
Single-family residential	2
Multi-family residential	25
Permitted non- conforming commercial or industrial use or building located in a residential or agricultural zone	50
Commercial & Industrial	1 sq. ft. of sign for each lineal foot of building frontage

1.3 Freestanding signs. In addition to any allowable wall signs, every single-family residential complex, commercial or industrial building, and every permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone shall be permitted to display freestanding or combination signs per street frontage subject to the limiting standards set forth:

TABLE 12-347.1.2 IDENTIFICATION SIGN STANDARDS FOR FREESTANDING SIGNS

LAND USE	NUMBER OF SIGNS	HEIGHT (FEET)	AGGREGATE AREA (SQUARE FEET)	SPACING
Single-family residential	1 per subdivision entrance	6'	50'	1 per subdivision entrance
Multi-family residential	1 per subdivision entrance	6'	50'	1 each side of driveway entrance
Permitted Non-conforming commercial or industrial use or building located in a residential or agricultural zone	2	10'	100'	300'



See Figs. 100'
5 - 7

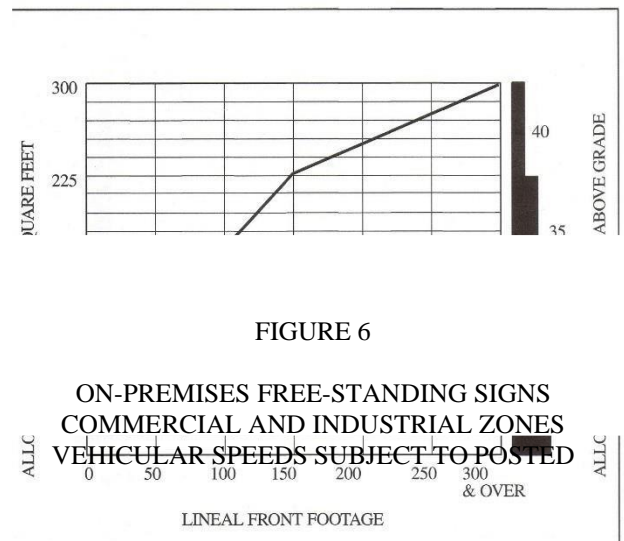


FIGURE 6

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEEDS SUBJECT TO POSTED

FIGURE 7

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED
LIMITS ABOVE 55 MILES PER HOUR

3. Directional signs. No more than two directional signs shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be 10 square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 25 square feet. No more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

1.4 Personal notice signs. Personal Notice signs shall be permitted on private property in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed an area of 1 square foot.

2. Personal Notice signs may be permanently displayed with a limit of one sign per street frontage.

2. Temporary signs.

2.1 Real estate signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

1. Real estate signs located on a single residential lot shall be limited to one sign, not greater than 3 feet in height and 6 square feet in area.

2. Real estate signs advertising the sale of lots located within

a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than 50 square feet in area nor 6 feet in height. All signs permitted under this section shall be removed within 10 days after sale of the last original lot.

3. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than 50 square feet in area nor 6 feet in height and shall be limited to one sign per street front.

4. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than 10 feet in height, and 100 square feet in area.

5. Real estate signs shall be removed no later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

2.2 Development and construction signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, financing group or groups the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than 3 feet in height and 6 square feet in area.

2. Such signs for residential subdivision or on one of the lots to be built upon and shall be no greater than 6 feet in height and 50 square feet in area.

3. Such signs for permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone shall be limited to one sign and shall be no greater than 6 feet in height and 50 square feet in area.

4. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed 10' feet in height and 100' square feet in area.

2.3 Special promotion, event and grand opening signs. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone, and for all commercial and industrial districts subject to the following limitations:

1. Such signs shall be limited to one sign per street front.

2. Such signs may be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. The signs shall be erected no more than 5 days prior to the event or grand opening and shall be removed not more than 1 day after the event or grand opening.

3. The total area of all such signs shall not exceed 25 square feet in any single-family residential district, 50 square feet in any multifamily residential district and 50 square feet in any commercial or industrial district.

2.4 Special event signs in public ways. Signs advertising a special community event shall be allowed (with a permit) in or over public rights-of-way, subject to approval by the code official as to the size, location and method of erection. The code official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way or obstruct traffic visibility.

2.5 Portable signs. Portable signs shall be permitted only in the commercial and industrial districts, as designated in this code, subject to the following limitations:

1. No more than one such sign may be displayed on any property and shall not exceed a height of 5 feet nor an area of 32 square feet.

2. Such signs shall be displayed not more than 20 days in any calendar year.

3. Any electrical portable signs shall comply with the National Electrical Code (NEC), as adopted in this City.

4. No portable sign shall be displayed prior to obtaining a sign permit.

5. No portable sign shall obstruct traffic visibility.

2.6 Political signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed a height of 5 feet nor an area of 16 square feet.

2. Such signs for election candidates or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary

election may remain displayed until not more than 10 days after the general election.

3. Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

2.7 For-sale signs. "For Sale" signs shall be permitted on private property in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed an area of 1 square foot.

2. The display of "For Sale" signs shall be limited to one sign per street frontage.

3. Requirements for specific sign types.

3.1 Canopy and marquee signs.

1. The permanently affixed copy area of canopy or marquee signs shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.

2. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

3.2 Awning signs.

1. The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.

2. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

3.3 Projecting signs.

1. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such occupancy, and shall be limited to the height of the building and an area not greater than .5' for each lineal foot of building frontage, except that no such sign shall exceed an area of 50 square feet.

2. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted.

3. Such signs shall not extend over a public sidewalk in excess of the width of the sidewalk.

4. Such signs shall maintain a clear vertical distance above any public sidewalk of a minimum of 9 feet.

3.4 Under canopy signs.

1. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy and shall be limited to an area not to exceed .1 (1/10) square foot for each 1 lineal foot of building frontage.

2. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of 8 feet.

3.5 Roof signs.

1. Roof signs shall be permitted in commercial and industrial districts only.

2. Such signs shall be limited in height to that of the roofline.

3. The sign area for roof signs shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

3.6 Window signs. Window signs shall be permitted for any permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone, and for all commercial and industrial districts, subject to the following limitations:

1. The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.

2. Window signs shall not be assessed against the sign area permitted for other sign types.

3.7 Menu Boards. Menu board signs shall not be permitted to exceed 50 square feet.

SECTION 12-709 SIGNS FOR DEVELOPMENT COMPLEXES

9.1 Master sign plan required. All landlord or single owner controlled multi-occupancy development complexes on parcels exceeding 8 acres in size, such as shopping centers or planned industrial parks, shall submit

to the code official a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

1. Proposed sign locations.
2. Materials.
3. Type of illumination.
4. Design of freestanding sign structures.
5. Size.
6. Quantity.
7. Uniform standards for nonbusiness signage, including directional and informational signs.

9.2 Development complex sign. In addition to the freestanding business identification signs otherwise allowed by this Article, every multiple-occupancy development complex shall be entitled to one freestanding sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. Nobusiness identification shall be permitted on a development complex sign. Any freestanding sign otherwise permitted under this Article may identify the name of the development complex.

9.3 Compliance with master sign plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

9.4 Amendments. Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex

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CHAPTER 13. PUBLIC SAFETY

ARTICLE 1

FIRE PREVENTION

Section 13-101 INTERNATIONAL FIRE CODE ADOPTED.

A. That a certain document is on file in the Office of the City Clerk of the City of Cherokee, Oklahoma, being marked and designated as the International Fire Code Latest Edition, adopted by the State of Oklahoma, its appendices and annual amendments thereof, as published by the International Code City Commission, be and is hereby adopted as the Fire Code for the City of Cherokee, State of Oklahoma, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City Clerk of the City of Cherokee, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article.

B. The following section of the International Fire Code 2009 Edition are hereby revised:

1. § 100.1, insert the City of Cherokee, State of Oklahoma.
2. 1612.3, insert the City of Cherokee, State of Oklahoma.
3. 1612.3, insert January 1, 2014.
4. 3410.2, insert January 1, 2014.

State Law Reference: Building codes, adoption by cities, 11 O.S. § 14-107; 74 O.S. § 324.8.

Section 13-102 ENFORCEMENT.

The code hereby adopted is enforced by the chief of the fire department.

Section 13-103 DEFINITION.

Wherever the word "municipality" is used in the Fire Prevention Code hereby adopted, it is held to mean the city.

Section 13-104 LIMITS FOR STORAGE OF FLAMMABLE LIQUIDS, BULK STORAGE OF LIQUEFIED PETROLEUM GASES, EXPLOSIVES AND BLASTING AGENTS; EXCEPTIONS

A. For purpose of the fire prevention code, the storage of:

1. flammable liquids in outside aboveground tanks,
2. new bulk plants for flammable liquids,
3. bulk storage of liquefied petroleum gas, and
4. explosive and blasting agents are prohibited within the city limits.

B. Provided however, the Fire Chief may issue a permit for the installation of an outside aboveground tank(s) within the city limits if:

1. the specifications for the outside aboveground tank(s) are in conformance and compliance with NFPA 30 & 30A.

2. the outside aboveground tank(s) have been approved by and carry a seal certifying approval by UL 2085.

3. the outside aboveground tank(s) is placed in a location(s) deemed suitable and safe by the Fire Chief.

C. The items listed in Paragraph A may also be permitted in the city limits within such locations as may be established in the city's zoning ordinance.

Section 13-105 MODIFICATIONS.

The City Manager, with the approval of the City Commission, shall have power to modify any of the provisions of the code hereby adopted in his own discretion or upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the City Commission thereon is entered upon the records of the City Commission, and for applications requesting change, a signed copy is furnished the applicant.

Section 13-106 NEW MATERIALS, PROCESSES, OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The City Manager, the chief of the fire department, and one person appointed by the Mayor with approval of the City Commission shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the code. The fire chief shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

Section 13-107 APPEALS.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the City Commission within thirty (30) days from the date of the decision appealed.

ARTICLE 2

FIRE DEPARTMENT AND SERVICE

DIVISION 1

FIRE SERVICES

Section 13-201 FIRE DEPARTMENT.

A. There is a fire department, the head of which is the chief of the fire department, who shall be appointed by the City Manager. The fire department shall be organized as a voluntary fire department and not more than twenty-five volunteer firefighters.

B. It is the duty of the fire department, among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to persons injured in or about burning structures, or elsewhere in case of an emergency; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in public and private buildings.

C. The term volunteer call firefighter ("volunteer firefighter") means a person who is enrolled as a volunteer member of a combination fire department of the city and who serves in that capacity without

receiving a regular salary. A salaried employee of a municipality shall not serve as a volunteer firefighter as a condition of employment with the municipality. No public safety employee of the City shall serve as a volunteer firefighter unless the person is off duty and such service is not a condition of employment. Volunteer firefighters shall:

1. Be required, when notified, to respond to alarms of fire and other emergencies.
2. Be required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters.
3. Be dropped from a fire department rolls if such volunteer firefighter has two unexcused absences in succession or three unexcused absences in a period of three (3) months.
4. Notify the chief if such volunteer firefighter is leaving the municipality for an extended period of time.
5. Be expelled from the rolls if such volunteer firefighter refuses to attend training classes provided for him or her.
6. Be expelled from the rolls for the following offenses:
 - a. conduct unbecoming of a firefighter
 - b. any act of insubordination
 - c. neglect of duty
 - d. any violation of rules and regulations governing the fire department, or
 - e. conviction of a felony; and
7. Reside in Alfalfa County or a county which borders Alfalfa County.

State Law Reference: Fire departments generally, 11 O.S. Section 29-101 et seq.; Volunteer fire departments, provisions and requirements, 11 O.S. Section 29-201 et seq.

Section 13-202 DUTIES OF THE FIRE CHIEF.

The chief is the administrative head of the department, subject to the laws of the state, ordinances of the city, and the rules and regulations adopted in this chapter. The chief shall have the following

powers and duties, and he may assign duties to other members of the department:

1. The chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him. He shall have supervision and control of the fire department, subject to the supervision and control of the city;

2. The chief may inspect or cause to be inspected by members of the department, the fire hydrants, cistern and other sources of water supply at least twice a year;

3. The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members;

4. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties;

5. The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department;

6. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism or arson, shall notify proper authorities and secure and preserve all possible evidence for future use in the case;

7. The chief is authorized to enter any building or premise in the city at any reasonable hour for the purposes of making inspections and to serve written notice to immediately correct any hazards that may be found;

8. The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel and other information of the department and shall make reports to the City Commission as it may require. The chief shall keep the City Commission informed regarding the fire department and its needs.

Section 13-203 DUTIES OF THE ASSISTANT CHIEF.

In the absence of the fire chief, the assistant chief on duty shall command the department and be held responsible therefor in all respects with the full powers and responsibilities of the chief.

Section 13-204 FIRE CHAPLAIN

The City Manager, with the concurrence of a majority of the

volunteer fire department may appoint a Fire Chaplain. The Fire Chaplain shall have such duties and responsibilities as set out in his/her job description, including but not limited to providing spiritual guidance, assistance in emergency situations, liaison with hospitals and clinics, attending fire department functions, fostering communication with and between the firefighters and providing other services as may be directed by the City Manager and/or Fire Chief. The Fire Chaplain may be paid a monthly stipend for his/her services, as approved by the City Council.

Section 13-205 RESERVED.

Section 13-206 NEW MEMBERS.

New members of the volunteer department are on probation for one year after their appointment. Upon completion of their probation period, new volunteer members must be approved by the majority of the other members of the fire department, the chief, and the City Manager.

Section 13-207 RESERVED

Section 13-208 RULES AND REGULATIONS

The City Commission, by motion or resolution, may adopt and change regulations relating to the fire department, its organizations, operation and compensation.

Section 13-209 USE OF FIRE EQUIPMENT; INVENTORY AND REPAIR.

No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department.

Section 13-210 CONTRACTS AUTHORIZED OUTSIDE CITY LIMITS.

The city is hereby authorized and empowered to enter into contracts or agreements with individuals, firms, private corporations or associations, or political subdivisions of the state for fire protection outside the corporate limits of the city, and to contract to provide fire protection jointly with other organizations and municipal subdivisions of the state.

Section 13-211 CONTRACT TERMS, FEES FOR SERVICE.

Any contract entered into by the city with an individual owner, firm, private corporation, or association, for outside aid, or mutual aid for fire protection, shall provide for the payment by the owner, firm, private corporation, or association, or political subdivision to the city for such fire apparatus and personnel at the rate per call as set by the City Commission. All moneys received from the calls shall go into the general fund.

Section 13-212 AUTHORITY TO ANSWER CALLS.

The fire department of the city is hereby authorized and directed to answer all outside calls outside the corporate city limits in the discretion of the fire chief. The fire department may not answer such outside calls if, in the opinion of the fire chief, it is inexpedient to do so on account of another fire in the city, broken apparatus, impassable or dangerous highways, or other physical conditions.

Section 13-213 FIREFIGHTERS SERVING IN REGULAR LINE OF DUTY.

All volunteer firefighters of the fire department of the city attending and serving at fires or doing fire prevention work outside the corporate limits of the city, as herein provided, are considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of the city. The firefighters are entitled to all the benefits of any fire pension and relief fund in the same manner as if the firefighting or fire prevention work was being done within the corporate limits of the city. Compensation of firefighters is as provided by the city.

Section 13-214 DEPARTMENT CONSIDERED AGENT OF STATE.

The fire department of the city answering any fire alarm, or call, or performing any fire prevention services outside the corporate limits of the city is considered as an agent of the state, and acting solely and alone in a governmental capacity, and the municipality shall not be liable in damages for any act of commission, omission, or negligence while answering or returning from any fire, or reported fire, or doing any fire prevention work under and by the virtue of Sections 13-210 to 13-214 of this code.

ARTICLE 3

POLICE DEPARTMENT

Section 13-301 POLICE DEPARTMENT, CREATED.

There is a police department, the head of which is the chief of police, elected as provided in Section 2-102 of this code. The chief of police is an officer of the city and has supervision and control of the police department. The police chief is subject to direction of the City Manager. All police officers are officers of the city.

State Law Reference: Police department and duties, 11 O.S. Section 34-101 et seq.

Section 13-302 DUTIES.

It is the duty of the police department to apprehend and arrest on view or on warrant and bring to justice all violators of the ordinances of the city; to suppress all riots, affrays, and unlawful assemblies which may come to their knowledge, and generally to keep the peace; to serve all warrants, writs, executions, and other processes properly directed and delivered to them; to apprehend and arrest persons violating federal or state law as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police officers.

Section 13-303 POLICE OFFICERS.

Police officers shall perform such duties as are required of them by the chief of police, city ordinances, federal, state and county regulations and any other actions required in the maintenance of good order and public peace.

Section 13-304 EMERGENCY DUTIES IN OTHER CITIES.

A. Approval is hereby given for service of members of the regular police department of this city as police officers of any other city or town, in an emergency situation, in the state, not more than one hundred (100) miles distant from this city, when such service is requested by the City Manager or chief of police of the city or town.

B. Requests for service under this Section are made by writing or by telephone, or other means of communications, to the City Manager who, if he determines that the request can be granted consistently with the continuance of the proper police protection to the inhabitants of this city, and after consultation with the marshal, shall direct the chief of police to furnish the number of officers requested and to

arrange their transportation to the requesting municipality.

Section 13-305 RESERVED

ARTICLE 4

RESERVED

ARTICLE 5

CIVIL DEFENSE

RESERVED

ARTICLE 6

UNCLAIMED PROPERTY

Section 13-601 DELIVERY TO CHIEF OF POLICE REQUIRED; RECORDS.

All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the chief of police. The chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof and the name of the person from whom it was taken and the place where it was found. The record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

State Law Reference: Disposition of personal property by police chief, procedures, application to destroy, 11 O.S. Section Sec. 34-104; Uniform unclaimed property disposition act, 60 O.S. Section 655; relating to finders of lost goods, 15 O.S. Section 511 et seq.; disposal of stolen or embezzled property coming into hands of police officers, 22 O.S. Section 1321, et seq.; disposal of liquor and gambling equipment seized by police officers, 22 O.S. Section 1261 et seq.; alcoholic beverages seized in violation of law, 37 O.S. Section 539.

Section 13-602 DISPOSITION OF PERSONAL PROPERTY, GENERAL PROCEDURES.

A. The Chief of Police is authorized to dispose of personal property or money or legal tender as provided in this Section, which has come into his possession in any manner if:

1. The owner of the personal property or money or legal tender is

unknown or has not claimed the property;

2. The property or money or legal tender has been in the custody of the chief of police for at least six (6) months; and

3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

B. The Chief of Police shall file an application in the Alfalfa County District requesting the authority of the court to conduct a sale of such personal property which has a fair market value of more than its face value. The Chief of Police shall attach to the application a list describing such property including any identifying numbers and marks, the date the property came into the possession of the Chief of Police, and the name of the owner and the person in last possession, if different and the address of such person, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application.

C. In any instance where the property has an actual or apparent value of more than Twenty-five Dollars (\$25.00), at least ten (10) days prior to the date of the hearing, notice of the hearing shall be sent by certified mail to each owner at the address as listed in the application. If the owner of any property with an actual or apparent value exceeding Five Hundred Dollars (\$500.00) is unable to be served notice by certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of municipal notices, and at two other public places in the municipality.

D. If no owner appears and establishes ownership to the property at the hearing, the court shall enter an order authorizing the Chief of Police to donate the property having value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by needy families or to sell the personal property for cash to the highest bidder, after at least five (5) days' notice of the sale has been published. The Chief of Police shall make a return of the donation or sale and the order of the court confirming the donation or sale shall vest title to the property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of the personal property shall be deposited in the municipal general fund.

E. All money or legal tender which has come into the possession of the Chief of Police pursuant to the circumstances provided for in

subsection A of this Section shall be transferred by the Chief of Police to the municipal clerk for deposit in the municipal general fund. Prior to any such transfer, the Chief of Police shall file an application in the district court requesting the court to enter an order authorizing the Chief of Police to transfer the money for deposit in the municipal general fund. The application shall describe the money or legal tender, the date the same came into the possession of the Chief of Police, and the name of the owner and the address of the owner, if known. Upon filing the application which may be joined with an application as described in subsection B of this Section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in subsection C of this Section. The notice shall state that upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B of this Section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

F. The provisions of this Section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

G. The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. Such procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finders identity with the police department or other agent of the municipality. Only property in which the finder relinquishes any future claim to its ownership will be stored in municipal police property rooms.

H. An amount not greater than 25% of the money or legal tender deposited in the municipal general fund as provided in subsection D or E of this Section may be paid as a finder's fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the Chief of Police or other agent of the municipality. All such fees must be first authorized by the City Manager.

State Law Reference: Similar provisions 11 O.S. Section 34-104.

Section 13-603 SEIZED PROPERTY RELATED TO GAMBLING, REPORT AND DISPOSITION.

A. If any personal property used for the purpose of violating any of the gambling laws of this state, shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required within five (5) days of the seizure to make a written report under oath and file the same with the county clerk, which report shall in detail state the name of the officer or person making the seizure, the place where seized and an inventory of the property or articles so taken into possession. Within five (5) days after seizing such property, the officer shall deliver the property to the sheriff of the county and take the sheriff's receipt therefor, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyed pursuant to the orders of the court.

B. In computing time, five (5) days, Sundays and holidays shall be excluded and not counted.

C. A duplicate copy of the receipt shall be filed with the county clerk, who shall keep a record of same. However, the sheriff and his deputies shall be required to make the affidavit and issue thereceipt and otherwise comply with the provisions of this Section. The sheriff shall be liable on his bond for the safe keeping of all such property so turned over to him under the provisions of this Section.

State Law Reference: Similar provisions, 22 O.S. Section 1261.

Section 13-604 SEIZED PROPERTY RELATED TO ALCOHOLIC BEVERAGES, DISPOSITION.

If the city police officers seize:

A. Any apparatus, equipment, vehicle or instrumentality used for, or intended for use in manufacturing or transporting any alcoholic beverages in violation of the state alcoholic beverage control laws; or

B. Any alcoholic beverages possessed, sold, transported, manufactured, kept or stored in violation of the state alcoholic beverage control laws, and if the court finds from a preponderance of the evidence that the property seized was lawfully subject to seizure, then the court shall render judgment accordingly and order the property forfeited to the city in which the seizure of the property took place. Such seized property shall be sold by the police chief, after giving ten (10) days' notice by one publication in a legal newspaper of the county at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this Section, the proceeds thereof shall be distributed

as follows:

1. First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and

2. Second, the remainder shall be deposited with the city.

State Law Reference: Similar provisions, 37 O.S. Section 539.

Section 13-605 PROPERTY OF DECEASED PERSONS.

The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit or the effect that he is the person entitled to possession of the property; the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this article.

Section 13-606 NOTICE OF SALE.

Ten (10) days before the sale of nonessential city stock or property, the police chief or his designee, shall cause to be posted in at least four (4) public places in the city (one of which shall be the main bulletin board in city hall) notices of the time, place and manner of the sale, and a general description of the property to be sold. The police chief or his designee shall also cause at least one published notice to be given in a newspaper of general delivery within the city. This notice shall include information as to the time, place, and manner of the sale, and a general description of the property to be sold.

Section 13-607 LIBRARY BOOK DISPOSITION.

A. All books withdrawn from the collection of the public library which are obsolete, as duplicates of titles no longer popular, have been replaced by better more comprehensive or updated editions, or because they are badly worn, regardless of whether the book was obtained through city funds or through donations, shall be disposed of by placement in a prominent place within the main library or branch. These books shall be those in usable condition and shall be priced as determined by the librarian. Books will be sold for cash only.

B. Monies collected for these books shall be placed in the library fund and expended for purposes consistent with the library purpose.

C. In addition to the above, the librarian may from time to time sell books at book fairs or art festivals which are held throughout the year within the city limits.

Section 13-608 EXCHANGE OF UNCLAIMED OR CONFISCATED WEAPONS.

A. Unclaimed or confiscated weapons which have been in the possession of the police department for one hundred twenty (120) days or more may be traded by the chief of police, with the approval of the police chief or his designee, for new weapons for use by the police department. The unclaimed or confiscated weapons may only be traded to such gun dealers who have complied with applicable state and federal regulations concerning firearms and, in the opinion of the police chief or his designee, are reputable.

B. In trading such unclaimed or confiscated weapons, the chief of police shall, with the approval of the police chief or his designee, advertise for bids for such trade. Such advertisement for bids shall be done in accordance with prevailing and established bid procedure as formulated by the purchasing entity of the city. In no case may the fair market value of the weapons received in such trade exceed Two Thousand Dollars (\$2,000.00) unless such trade is accomplished pursuant to formal bid procedure.

C. The value of such unclaimed and confiscated weapons as hereinabove discussed shall in all cases be determined by their fair market value of the new weapons received in such trade.

CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

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CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

ARTICLE 1

USE AND CONSTRUCTION OF STREETS

Section 14-101 TREES AND SHRUBBERY TO BE TRIMMED.

A. The owner of any premises abutting on any street of this city shall trim all trees and shrubbery growing in the parking, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as hereinafter required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, nor lower than eight (8) feet above the sidewalk.

B. Any owner or occupant who shall fail, refuse or neglect to trim trees and shrubbery as provided in Section A of this Section, after receiving five (5) days' notice from the head of the department in charge of streets to do so, shall be guilty of an offense against the city. Every day that the owner or occupant shall fail, refuse or neglect to trim the trees or shrubbery, after the expiration of the five (5) days' notice shall be a separate offense.

Section 14-102 UNLAWFUL TO INJURE TREES AND SHRUBBERY.

It is unlawful for any person to injure any tree or shrubbery on a street or alley in the city; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

Section 14-103 UNLAWFUL TO OBSTRUCT SIDEWALKS, PARKWAYS, STREETS, AND ALLEYS WITH MERCHANDISE.

It is unlawful for any person, firm or corporation to place upon or permit to be placed upon the sidewalks, parkways, streets and alleys of the city any goods, wares, articles of merchandise or any other obstruction, and leave the same thereon; or to use the same as a place to carry on a business or trade.

Section 14-104 UNLAWFUL TO OBSTRUCT UNDULY SIDEWALKS AND STREETS.

It is unlawful for any person, firm or corporation to use or obstruct the sidewalks of the city in any manner so as to interfere

unduly with pedestrian traffic thereon, or to use or obstruct the streets and alleys of the city in any manner so as to interfere unduly with lawful traffic and parking thereon.

Section 14-105 UNLAWFUL TO PLAY ON STREETS.

It is unlawful for any person to play on the main-traveled portion of the streets and alleys of the city, except as may be authorized by ordinance.

Section 14-106 WATER FROM FILLING STATIONS AND OTHER BUSINESSES.

It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking, street, alley or other public way.

Section 14-107 OWNER OR OCCUPANT NOT TO PERMIT SIDEWALK OR SIDEWALK AREA TO BECOME A HAZARD.

It is unlawful for the owner or occupant of property abutting upon a sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk, or sidewalk area.

Section 14-108 NOTICE; PENALTY.

If any property owner, occupant or agent of such property shall fail or refuse to repair or clean off the sidewalk abutting or adjacent to the property owned or occupied by him within seventy-two (72) hours after notice served on him by any police officer, health officer, or any other agent of the city, the property owner or occupant or agent so failing or refusing after notice so to do, to repair or clean off such sidewalk, shall be deemed guilty of an offense.

Section 14-109 NO OBSTRUCTIONS TO INTERFERE WITH DRAINAGE.

It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water, into the storm sewers or drains, or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter.

Section 14-110 INJURY; DRIVING OVER CURBING AND CROSSINGS.

Any person who shall willfully or wantonly cut or break or remove, or in any manner displace any curbing, guttering, or who shall recklessly or intentionally, drive any vehicle loaded with asphalt

materials, lumber or building materials, or any kind, into or on the curbing, or concrete guttering of any paved street, shall be guilty of an offense.

Section 14-111 OWNER OF VEHICLE RESPONSIBLE FOR DAMAGE TO STREET.

The owner, driver, operator or mover of any vehicle over any street or alley of the city and specifically vehicles of a load weight in excess of passenger automobiles and light delivery trucks, shall be responsible for all damages which streets or alleys may sustain as a result of the use thereof by such vehicles. This shall not be applicable to deterioration caused by normal vehicular use of such streets and alleys. The amount of such damage may be recovered in an action in the court of proper jurisdiction in the name of the city.

Section 14-112 WHEN SIDEWALKS MAY BE OBSTRUCTED.

It is unlawful for an owner or occupant of premises abutting on a sidewalk in the city to store on the sidewalk, goods, wares and merchandise of a space at least six (6) feet in width, is left clear for passage of traffic or pedestrians. Such goods, wares and merchandise may not be stored or displayed on the sidewalk in such a manner that vehicles parking at the curb could be damaged thereby. Such goods, wares and merchandise must be removed by the owner or occupant of the premises at least once during each twenty-four (24) hour period.

Section 14-113 INSECTS AND WORMS.

Each owner, agent, or occupant in front of or on whose lots shade trees have been planted or are growing shall use every reasonable precaution to protect the same from insects and worms.

Section 14-114 PERMIT TO STRING WIRES.

A. It is unlawful and an offense for any person to trim, cut or otherwise mutilate any shade or ornamental tree on any street, parking, or other public place in the city for the purpose of stringing wires or cables along or across the parkings or other public places, without first obtaining a permit therefor in writing from the city, which shall be filed with the city clerk.

B. Whenever any telephone, telegraph, or electric light and power company or any other person with authority to use the streets for such purposes, desires to string any wires or cables along or across any of the street parking, or other public place, such person shall make application to the city. If the City Manager determines that it is necessary for the proper stringing of the wires to trim or cut any such trees, and the same can be done without serious injury to the trees, he

shall issue his written permit, stating the nature and extent of such trimming or cutting, which shall be filed with the city clerk as heretofore provided. All such trimming or cutting shall be done under the direct supervision and control of the City Manager or some competent person designated by him.

ARTICLE 2

EXCAVATING OR CUTTING STREETS AND ALLEYS

Section 14-201 APPLICATION FOR A CITY PERMIT.

Prior to commencement of any boring, cutting or excavation under, across or through any street or alley, the party about to perform the same ("permittee") shall apply for a permit on the appropriate city form stating the type, nature and manner that the proposed boring, cutting or excavation is intended to be done, the location thereof, and the necessity of such boring, cutting or excavation. The appropriate permit fee as provided in Chapter 18 shall accompany the application. The application shall also state the type of fill materials being used. The application must be approved and a permit issued by the City Manager prior to any such boring, cutting or excavation.

Section 14-202 RESERVED.

Section 14-203 MAINTENANCE AND INDEMNITY BOND.

Prior to commencement of any boring, cutting or excavation of any street or alley, the party to perform the same shall post with the City Clerk a good and sufficient surety or indemnity bond, payable to the City in the amount of at least \$5,000.00, unless otherwise waived by the City Manager, to protect the City against defective workmanship and material for a period of one (1) year from the date of the closing of the bore, cut or excavation, and otherwise to protect and save the City harmless from any and all damages caused by any such boring, cutting or excavation.

Section 14-204 SPECIFICATIONS

A. After the installation, replacement or repair of any utility line or other line accomplished, the permittee shall fill the bore, cut or excavation in the following manner:

1. Cover the main line and connection with approximately one (1) foot of compacted sand; and
2. Cover the one (1) foot of compacted sand with one (1) of the

following permitted fill materials:

- a. Flowable fill of a type permitted by the City Manager shall be used within six (6) inches of the surface. The City will haul the rubble from the work site and finish filling the hole and replacing the rock or asphalt or other material;
- b. Fill the hole with sand and water within six (6) inches of the surface and thereafter the permittee shall haul the rubble from the work site, finish filling the hole, replace the rock or asphalt or other surface material and be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for an one (1) year from the date of the closing of the bore, cut or excavation;
- c. Fill the hole with lime screenings within six (6) inches of the surface and thereafter the permittee shall haul the rubble from the work site, finish filling the hole, replace the rock or asphalt or other surface material and be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for an one (1) year from the date of the closing of the bore, cut or excavation; or
- d. Fill the hole with earthen materials within six (6) inches of the surface and thereafter the permittee shall haul the rubble from the work site, finish filling the hole, replace the rock or asphalt or other surface material and be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for an one (1) year from the date of the closing of the bore, cut or excavation.

3. The permittee shall ensure that the fill materials specified hereinabove are compacted to a 95% compaction and as further specified by the City Manager. If required, the party making any such bore, cut or excavation shall replace any paving, whether asphalt, concrete or a combination, damaged, destroyed or removed in like manner as existed prior to such bore, cut or excavation.

B. Upon completion of all restoration work the City Manager shall examine the location to determine if such filling, tamping or paving complies with this Article. If such restoration does not comply with this, the City may cause proper and necessary repairs at the sole cost of the permittee.

C. It is the City Manager's discretion as to the repair and

replacement of streets and alleys, either being trenched or bored.

D. Any permittee who violates the terms and provisions of this Article, either by an act or omission, shall be guilty of an offense.

Section 14-205 PERMIT REQUIRED FOR CURB CUT AND/OR DRIVEWAY OPENINGS TO A STREET

No person, firm or entity shall cut the curb of any street and/or otherwise provide for a driveway opening to any street (the "work") without filing an application, paying the relevant fee, and obtaining a permit authorizing such work, from the City Clerk. No person, firm or entity shall fail to install such work in accordance with such regulations or as otherwise required and directed by the City Manager.

ARTICLE 3

DEVELOPER REIMBURSEMENT FOR UTILITY MAIN EXTENSIONS: PAYBACK OF COSTS FOR THE EXTENSION OF UTILITY MAIN CONSTRUCTION, INCLUDING THE PROVISION OF EXCESS CAPACITY IN SUCH NEW UTILITY MAINS

Section 14-301 DEVELOPER REIMBURSEMENT FOR UTILITY MAIN EXTENSIONS: PAYBACK OF COSTS FOR THE EXTENSION OF UTILITY MAIN CONSTRUCTION, INCLUDING THE PROVISION OF EXCESS CAPACITY IN SUCH NEW UTILITY MAINS.

A. The eligible costs for the extension of public utility mains constructed at the expense of a developer, including the provision of excess capacity in such public utility mains (water/sewer as defined herein), shall be recoverable by the developer as provided herein. Eligible recoverable public utility main extension or excess capacity costs include the developer's expense in constructing the public utility main, including all right-of-way/easement costs (both temporary and permanent) and costs for engineering, surveying, utility adjustments or relocation, excavation, backfill, sub-grade preparation, pavement repair, utility main construction and other amenities, as might be required, all of which costs are subject to the review and approval of the City Manager (hereinafter the "eligible costs"). The developer shall be paid 90% of the eligible costs reimbursed from third parties as provided herein, with the City retaining 10% as an administrative fee. The City and the developer shall enter into a contract providing for the reimbursement of such costs by the City to the developer for such extension, including the provision of excess capacity, from third parties desiring to connect to such utility main as provided herein. The eligible costs as approved by the City Manager shall be attached to and made a part of such contract.

B. Any person, firm or corporation desiring to connect to any utility main subject to this section shall pay to the City a fee equal

to the percentage that such person, firm or corporation's usage volume of such utility main relates to the total main's capacity X the eligible cost ("pro-rata share").

(Connector's usage volume/utility main capacity X eligible costs=pro-rata share)

The City's engineer shall make such determination at the time the person, firm or corporation makes application for a connection to the utility main or the City may make such determination by reference to the water and sewer tables attached to this ordinance, found in the files of the City Clerk and incorporated herein by reference. Such person firm or corporation shall pay their pro-rata share prior to approval of the connection. In the event a permit, tap, connection or permission is given or granted by the City to any third party to a utility main governed by the terms of this section, without the payment of such required pro-rata share, by negligent act or omission or otherwise, the City may, after at least ten (10) days written notice of such fact is given to such offending person, firm or corporation, disconnect such person, firm or corporation's water utility service until such pro-rata share is paid.

C. Only utility mains subject to this section and constructed after August 1, 2006, shall be subject to the pro-rata share payback program.

D. Each person, firm or corporation identified in subsection (b) and subject to the pro-rata share payback program shall pay their pro-rata share subject to an Inflation/deflation adjustment. Such adjustment shall be calculated using an inflation factor from the Engineering News Record Construction Cost Index. The inflation factor shall be a percentage increase or decrease applied to the pro-rata share that adjusts the amount due for these costs. The year that the utility main improvement is constructed shall constitute the base year. The latest available year before the new tap is made shall be the comparison year. The inflation factor will be calculated by dividing the base year index into the comparison year index times the pro-rata share. The value of the base factor in place at the time the City Commission adopts the contract with a developer will be applied to that project until all funds are paid back or the obligation expires, whichever occurs first.

E. Beginning at year sixteen (16) after the utility main is completed and accepted by the City and continuing through year twenty (20), the eligible costs shall decrease at a rate of twenty (20) percent of the eligible cost amount existing at the end of the fifteenth year until the eligible cost obligation is reduced to zero dollars (\$0.00) and thus terminates at the end of the twentieth year from the date of construction and acceptance of the utility main.

F. This ordinance shall not apply in the event that an easement or other contract approved or accepted by the City specifically provides for a different or no-cost requirement, or if the City Commission declares an exception to the rule by a 3/4 vote of all the members of the City Commission.

G. The City's sole responsibility to the developer shall be to reimburse funds received by it from third parties pursuant to the terms of this section. The City shall have no liability or indebtedness or other obligation whatsoever to the developer.

H. Any person, firm or corporation who deems himself aggrieved by the terms and conditions of this section shall have a right of appeal to the City Commission. The City Commission's decision shall be final in all respects.

I. For purpose of this section "public utility main" or "utility main" shall mean:

Six inches (6") or larger for water mains
Eight inches (8") or larger for sewer mains

ARTICLE 4

RIGHTS-OF-WAY OCCUPANCY MANAGEMENT

Section 14-400 INTENT, PURPOSE AND SCOPE

A. In order to provide for the public health, safety and welfare of the citizens of the City of Cherokee, as well as to ensure the structural integrity of the City's streets and related infrastructures; to minimize the disruption to the traveling public; and to ensure costs incurred by the City to acquire, maintain, and manage the Rights-of-Way are properly allocated among the various users of the Rights-of-Way, the City hereby establishes standards for authorizing and managing the placement of Facilities in Rights-of-Way; performing installation, maintenance, and other work in the Rights-of-Way; and appropriately recovering costs incurred by the City related to such activities.

B. It is the intent of this Article to charge those persons that own, manage, operate or control the Facilities located in the Rights-of-Way a fee based upon the proportion of Facilities they have in the Rights-of-Way to the amount of costs the City of Cherokee incurs in acquiring and maintaining the Rights-of-Way. It is not the intent of this Article to prohibit those persons that own, manage, operate or control the Facilities in the Rights-of-Way from passing the fees they pay pursuant to this Article along to their customers and others.

C. It is the intent of this Article that all trunks, mainlines, area or systemwide Facilities, unless otherwise authorized by permit, franchise or otherwise, shall only be located within the Rights-of-Way of Arterial Streets as defined by this Article. It is intended that local or individual distribution lines directly attaching to individual customer service lines shall be located in the Rights-of-Way of Collector and Local Streets.

D. This Article shall not apply to any ownership, operation or maintenance of the plants, systems and facilities or upon the Rights-of-Way of the City which is performed and carried out in accordance with the terms and provisions of the grant or franchises between the City and an authorized Franchise Holder or Public Service Franchise.

Section 14-401 DEFINITIONS

For the purposes of this Article, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated.

A. City means the City of Cherokee.

B. Emergency means a condition that poses a clear and immediate danger to life or health, of a significant loss of property, or requires immediate repair or replacement in order to restore service to the public or a customer.

C. Excavate means to dig into, around or under, or in any way remove or physically disturb or penetrate any part of the Rights-of-Way, including but not limited to boring, blasting, pushing, and drilling holes for the installation of poles or conduit.

D. Facility or Facilities means all or any part of a collective system of tangible things including but not limited to pipelines, conduits, copper or fiber optic cabling, pedestals, guy wires, anchors, vaults, junction boxes, utility poles and electrical wiring, that is partly or entirely located in the rights-of-way and is used for the transmission of goods or services, including but not limited to natural gas, steam, chilled or potable water, electricity, cable television or telecommunications service, regardless of whether the services are provided for a fee, or provided to the general public, to a limited group of private users, or solely for the benefit of the owner of the system.

E. Franchise holder means a holder of a voter approved public service franchise.

F. Obstruct means to place any tangible object or material in the Rights-of-Way in a manner that stops, hinders, disrupts or otherwise interferes with free and open passage over a specific area or part of the Rights-of-Way.

G. Occupant means any person to whom a ROW Construction Permit has been issued for the purposes of placing, owning, operating or managing Facilities in the Rights-of-Way.

H. Occupancy Permit Fee shall be the fee that covers an apportioned share of the costs to the City of acquiring and maintaining the Rights-of-Way.

I. Person means any natural or corporate person, business association or other business entity including but not limited to a partnership, a sole proprietorship, a political subdivision, a public or private agency or authority of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity, but not the City.

J. Public Service Franchise means the authorization granted by the City, and approved by a vote of the people, giving the grantee and nonexclusive right to provide, through public Facilities maintained or operated upon, across, beneath, or over any rights-of-way in the City, any general public service, including heat, light, power, refrigeration, steam, or telecommunications service or cable television, within a defined franchise area.

K. Rights-of-Way (ROW) Construction Permit means an authorization to excavate in or obstruct Rights-of-way at a specific place and time, for the purposes of installing, constructing or maintaining Facilities within a specified portion of the Right-of-Way.

L. Rights-of-Way or ROW means the surface, the air space above ground, and the area below the surface of any public street, highway, parkway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, adjacent easement or similar property in which the City now or hereafter holds a property interest and/or a maintenance responsibility which, consistent with the purposes for which it was dedicated, may be used for the purpose of constructing, installing, operating and maintaining Facilities of any kind, including but not limited to conduits, pipelines, cables, utility poles, junction boxes and duct banks. Rights-of-Way does not include buildings, parks or other property owned or leased by the City, its trusts, or authorities, but does include all Arterial, Collector and Local street Rights-of-Way.

M. Traveling Surface means that portion of the Arterial Rights-of-Way, paved with either asphalt or concrete, or other material

designed to support vehicular traffic, lying between those portions of the Arterial Rights-of-Way that are unpaved.

Section 14-402 ADMINISTRATION

A. General. The City Manager shall be responsible for the administration and enforcement of this Article, and his responsibilities shall include:

1. The administration of the registration of ROW Occupants, issuance of Permits, calculation of ROW Occupancy Permit Fees, maintenance of Facilities information, administration records and all other duties related to the maintenance of records on ROW Occupants; and

2. The administration and enforcement of matters related to Rights-of-Way Construction Permits and the enforcement of engineering standards as outlined in this Article.

B. City Clerk. The City Clerk shall be the primary City official responsible for administration of all insurance requirements and collection activities provided for in this Article.

Section 14-403 AUTHORITY TO OCCUPY THE RIGHTS-OF-WAY

A. General. Any person subject to this Article wishing to construct, install, operate or maintain any Facilities in the Rights-of-Way shall first obtain proper authorization, as described in this section.

B. Right-of-Way Construction permits. No person shall obstruct the Traveling surface or construct new Facilities or do maintenance work of Facilities or cut the pavement or put Facilities under the pavement or any new pole installation of any defined Rights-of-Way without first obtaining a Rights-of-Way Construction Permit pursuant to Section 14-404. This section does not apply to any governmental unit or entity engaged in the official act of maintaining any element of its transportation system, including but not limited to the State of Oklahoma, the City of Cherokee, or the U.S. Government.

Section 14-404 RIGHTS-OF-WAY CONSTRUCTION PERMITS

A. Permit Requirement. To apply for a Rights-of-Way Construction Permit, an applicant shall furnish the following:

1. Name of the owner or operator of the Facility; and

2. Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any

"peak hour" period; and

3. The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority; and

4. Proof of payment of all money due the City for Rights-of-Way Construction and Occupancy Permit fees, and any invoiced cost, loss, damage, or expense suffered by the City as a result of the applicant's prior construction activity including but not limited to any emergency action taken by the City; and

5. Evidence that the applicant has obtained the insurance coverage required by Section 14-407 of this Article; and

6. A traffic control plan in compliance with Section 14-406 of this Article; and

7. A list of the applicant's emergency providers, including the name of the company, local contact person, mailing and e-mail address, 24-hour emergency phone number, and pager or fax number.

8. Detailed Engineering plans. The plans shall show the location and area of the proposed project, the locations of all existing and proposed equipment and Facilities, the height and/or depth of the proposed equipment and existing Facilities, and the spatial relationship with any adjacent infrastructure, rights-of-way line, easement, utility, and/or other physical features.

B. Application Fee. Applicants shall be required to pay a non-refundable application fee of One Hundred Fifty Dollars (\$150.00), which shall be paid to the City Clerk.

C. Permit Terms and Conditions. Each Rights-of-Way Construction Permit shall describe the general location of the permitted project, the size of the obstructed area, the duration of the permit, which shall be based on the amount of time estimated for completion of the permitted activity, and any special conditions or other information deemed relevant by the City Manager. A Rights-of-Way Construction Permit shall be issued or denied within ten (10) days of submission of a completed application and payment of all required fees. In the event of denial, the City Manager shall advise the applicant of all steps necessary to secure approval of the permit.

D. Emergency Permits.

1. An Emergency Rights-of-Way Construction Permit is available for projects. Any emergency excavation required to maintain the safety and wellbeing of the general public should be commenced without delay.

Notification must be provided to the City Manager within two hours of the commencement of the project. This notification shall consist of the following:

- a. Anticipated date, duration, start and stop time, location (site address if possible) including nearest cross street; and
- b. Size of the obstruction and work area less any normal traffic control in advance; and
- c. Applicant's company name; and
- d. Facility owner's name; and
- e. Local contact information; and
- f. General description of the type of construction activity and/or Facilities installed.

2. Persons holding an Emergency ROW Construction Permit shall notify the City Manager upon the completion of the project. All persons, including Franchisees, engaged in an activity within the Arterial Rights-of-Way not specifically exempt in this section, must notify the City Manager that an obstruction will occur.

E. Permit Conditions. The Applicant shall adhere to the following requirements:

1. All current engineering requirements and construction standards as described in Section 14-406 of this Article; and
2. All current Rights-of-Way Construction Permits shall be maintained on each work site. All Rights-of-Way Construction Permits shall be presented upon request to any representative of the City Manager; and
3. Excavation projects are subject to the requirements of Section 14-406 of this Article; and
4. All restoration work required of any roadway pavement by any permit holder shall be performed by the Occupant's paving contractor, who shall be bonded in accordance with the City's Engineering Standards and Specifications. Upon completion of the work and the subsequent removal of the obstruction, the Occupant shall be obligated to notify the City Manager that the obstruction has been removed.

F. Failure to Apply. Any person that fails to comply with this section shall be precluded from obtaining any Rights-of-Way Construction

Permit or performing any further construction within the City's Arterial Rights-of-Way for up to twelve (12) months from the date of notification, in addition to any monetary penalty imposed pursuant to Section 14-420 of this Article.

Section 14-405 OCCUPANCY PERMIT FEES

A. Except as provided in this section, every ROW Occupant shall pay an annual Permit Fee as set by Resolution to reimburse the City for the cost of acquiring, maintaining, and managing the Arterial Rights-of-Way. The Permit Fee shall be computed in accordance with this section.

1. The Permit Fee shall be computed by multiplying the Occupant's pro rata share of the burden on the Arterial Rights-of-Way. This pro rata share shall be equivalent to the linear feet occupied in the Arterial Rights-of-Way, and shall be calculated as follows: For each linear foot of space less than 1 foot wide the Fee shall be fifty cents (\$.50); for each linear foot of space more than one foot but less than 2 feet wide the Fee shall be One Dollar (\$1.00); for all installations exceeding 2 feet in width, the Fee shall be Two Dollars (\$2.00). The minimum Fee shall be One Hundred Dollars (\$100.00) for each manhole, junction box and any other fixtures.

2. The Occupancy Permit Fee will be reviewed annually and adjusted based on the increase or decrease of the CPI-Urban Users Index. The purpose of this review is to examine whether the Fee is under or over recovering costs associated with ROW use.

Section 14-406 ENGINEERING STANDARDS

A. Allocation of Space in the Rights-of-Way. The City Manager shall have the power to establish reasonable limitations on the placement of new or additional Facilities within specific congested segments of the Rights-of-Way if there is insufficient space to accommodate all of the requests of ROW Occupants. In making such decisions, the City Manager shall strive to the extent possible to accommodate all existing and potential users of the Rights-of-Way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the width and physical condition of the Rights-of-Way, the protection of existing Facilities in the Rights-of-Way, and future City plans for public improvements and development projects which have been determined to be in the public's interest.

B. Overhead/Underground Policy. Facilities may be installed above ground in areas where existing utility Facilities are above ground and shall, unless otherwise approved by the City Manager, be installed

underground in areas where existing Facilities are installed underground, subject to all applicable safety codes. The City encourages the sharing of underground and overhead Facilities. Leasing of excess space in ducts, conduits and on poles is a matter between interested parties; however, lessees of such physical Facilities must still comply with the terms of this Article, unless otherwise expressly exempted by the City Manager. Underground Facilities shall be placed in such a manner so they can be located by the owner of the Facilities or his representative.

C. Location Criteria.

1. Corridors. The City Manager shall assign specific corridors within the Rights-of-Way, or any particular segment thereof as may be necessary, for each type of facility that is now or as the City Manager concludes may in the future be located within the Rights-of-Way. The City Manager shall establish an ideal cross section identifying the lateral and vertical position of each class of potential user. ROW Permittee's shall have the right to occupy only one corridor or section of each Rights-of-Way within the vertical zone established for the applicable class of user, as established by the City Manager. Additional corridors in the same portion of the Rights-of-Way may be granted only upon consideration of future utility uses and a demonstration by the requesting party that its current corridor does not afford sufficient space to install its Facilities. All permits issued by the City Manager or involving the installation or replacement of equipment shall be reviewed as to the proper corridor for the Facility.

2. Interference. A ROW Occupant shall not place any fixtures or equipment where the same will interfere with any existing Facility. A ROW Occupant shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Rights-of-Way.

D. Construction Standards.

1. Depth. Unless agreed to in writing in advance by the City Manager, the depth of installed Facilities shall be, at a minimum, as follows:

- a. Twenty-four inches (24") in soil,
- b. Twenty-four inches (24") below a projected slope from the flowline of a ditch at a Three (3) horizontal and one (1) vertical slope,
- c. Forty-eight inches (48") under a roadway measured from the surface of said roadway to the top of the installation,
- d. Forty-eight inches (48") under a stormwater or creek channel

design flowline; and,

e. Cross under all water and natural gas lines at a depth of Twenty-four inches (24").

2. Backfilling/Testing. Excavations shall be promptly backfilled according to standards on file with the City Manager and the earth shall be restored to original grade to assure no hazard to vehicular, animal or pedestrian traffic. The permittee shall perform all necessary compaction tests in accordance with the latest design and construction specifications approved and disseminated by the City Manager setting forth requirements for backfill and paving cut repairs (e.g., standard concrete pavement cut and repair; standard asphalt pavement cut and repair, etc.). All test reports shall be submitted to the City Manager.

3. Replacement. The replacement of any sidewalk, any driving surface, and the base of any roadway shall comply with Engineering Standards, pursuant to engineering plates on file with the City Manager and may require additional removal to the nearest joint in all directions.

4. Trenching. A ROW Occupant shall not proceed with additional trench work exceeding a maximum of five hundred (500) feet of open trench without the approval of the City Manager.

5. Crossings. All underground crossings of paved roadways and stormwater and creek channels shall be made by a bore method approved by the City Manager. Voids and all holes shall be properly grouted. Crossings shall be at approximately right angles to the roadway and in no case shall any facility be placed in any culvert or drainage pipe or within ten (10) feet of a culvert or storm sewer.

6. Erosion. Erosion prevention measures shall be incorporated into all work within the public way as recommended by the City Manager. All gutters, ditches, and other drainage features shall be maintained free and unobstructed of sediment, dirt and debris. The handling, grading, excavating, or moving of excess construction materials or the movement or cleaning of construction vehicles or equipment shall be conducted in such a manner that materials and washout will not be deposited into catch basins, gutters, ditches, or areas where runoff may carry materials into any public or private stormwater system.

E. Dimension and Location Criteria. Maximum dimensions and location of associated, aboveground equipment, including but not limited to junction boxes, duct banks, electric generators, repeaters, antennas, satellite dishes or equipment cabinets, shall meet the following criteria:

1. Associated equipment shall not be installed in such a manner

so as to obstruct the view of drivers upon or entering a public street. Equipment, excluding poles, exceeding a height of twenty (24) inches shall not be placed within any intersection sight-distance triangle.

2. No equipment, including poles, cables, and guy wires, shall be placed so as to obstruct, block, obscure, or otherwise interfere with any traffic control device, fire hydrant, wheelchair ramp, or other safety device. Locations with existing or potential traffic signals shall have the overhead vehicle signal face display zones kept clear from wires and cables below a height of twenty-two (22) feet above the pavement grade. Power lines which require a ten (10) foot separation from other Facilities shall be suspended no lower than thirty-two (32) feet above the pavement grade around intersections with existing or potential traffic signals. This minimum clearance shall not be violated by sagging due to cable elongation.

3. No equipment, including poles and guy wires, shall be placed so as to obstruct the flow of pedestrian traffic, and in no case result in less than four (4) feet of clear sidewalk, without the approval of the City Manager.

F. Traffic Control and Safety.

1. Any Person occupying any portion of Rights-of-Way shall erect a barrier around the perimeter of any excavation and provide any and all traffic control devices, signs, and lights appropriate to the level of complexity of the activity, in order to protect, warn, and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices and approved by the Director of Traffic Engineering as provided for in this Article.

2. All Occupants shall implement each traffic control plan which shall be in compliance at all times with applicable city, state and federal requirements and maintain all devices in good repair. Occupants with open excavations awaiting final restoration shall maintain all devices until the Department of Public Works notifies the permittee in writing that the City or the Occupant's contractor is assuming responsibility for traffic control for the paving cut restoration.

G. As-Built Plans. Preliminary plans shall be submitted for each new construction project at the time of application for a Rights-of-Way Construction Permit. After completion of construction on each project, final as-built construction and acquisition Facility maps shall be submitted to the City Manager. Such as-built maps shall be based upon post-construction inspections to verify location.

Section 14-407 INSURANCE

A. Insurance Required. Each Occupant shall furnish an owner's protective policy, with the City as the named insured, issued by the same insurance company as the issuer of the Occupant's liability coverage in the amounts set forth below:

Comprehensive General Liability:
(other than automobile)

Personal injury, each person	\$100,000.00
Property damage, each person	\$100,000.00
Aggregate amount, each occurrence	\$1,000,000.00
Automobiles and Truck Liability: (owned, hired and non-owned)	
Personal injury, each person	\$100,000.00
Property damage, each person	\$100,000.00
Aggregate amount, each accident	\$1,000,000.00
Workers' Compensation Insurance	Statutory Amount

A certificate of self-insurance may be presented to the City of Cherokee in lieu of the forgoing insurance requirements.

B. Endorsement. All insurance policies and certificates maintained pursuant to this Article shall contain the following endorsement:

"It is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until thirty (30) days after receipt by the City Clerk, by Certified Mail, Return Receipt Requested, of a written notice of such intention to cancel or not to renew."

C. Qualifications of Sureties. All insurance policies required to be maintained by a ROW Occupant shall be with sureties qualified to do business in the state of Oklahoma, with an A-1 or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form approved by the City Attorney.

D. Approval. All policies of insurance, indemnification agreements and bonds executed to the City of Cherokee shall be with the City Clerk who shall ascertain whether the surety is authorized to do business in the state of Oklahoma, then submitted to the City Attorney for approval as to form.

E. Prior Notice of Policy Cancellation. All liability insurance policies provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the City Clerk. No Occupant shall cancel any required

insurance policy without submission of proof that it has obtained alternative insurance satisfactory to the City Clerk that complies with this Article.

Section 14-408 INDEMNIFICATION

A. Each Occupant shall, at its sole cost and expense, indemnify, hold harmless, and defend the City, its elected and appointed officials, officers, boards, commissions, City Commission, agents, employees, and volunteers against any and all claims, suits, causes of action (whether frivolous or otherwise), proceedings, and judgments for damages or equitable relief arising out of the installation, construction, maintenance, or operation of Facilities by the Occupant; the conduct of the Occupant's business in the City; or in any way arising out of the Occupant's enjoyment or exercise of the privileges granted by the City or applicable law, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by the City, other applicable law, or the terms of any grant to occupy the Rights-of-Way.

B. Each Occupant shall indemnify and hold harmless the City, and its elected and appointed officers, officials, boards, commissions, City Commission, employees, agents, and volunteers from and against any and all claims, demands, suits, or causes of action (whether frivolous or otherwise) of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the City arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the Occupant, or its agents, independent contractors, or employees related to or in any way arising out of the construction, operation or repair of the Facilities in question.

C. The indemnity provision of this Section includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such action, claim, suit (whether frivolous or otherwise), or proceeding, as well as the reasonable value of any services rendered by the City Attorney, or City staff or employees.

D. Nothing in this Article shall be construed to waive any immunity the City enjoys under applicable law, or the Oklahoma Constitution.

E. Acceptance of the provisions of this section shall be a condition of all Rights-of-Way Construction Permits.

Section 14-409 NO LIMITS ON LIABILITY

Neither the provisions of this Article nor any damages recovered by the City shall be construed to limit the liability of an Occupant for

damages to the City, its elected and appointed officials, officers, boards, commissions, City Commission, agents, employees, volunteers and any other person or persons.

Section 14-410 RELOCATION OF EQUIPMENT AND FACILITIES

An Occupant shall promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its equipment and Facilities in the Rights-of-Way upon written notification by the City Manager. The City Manager shall forward a recommendation upon careful determination of the best interest of the health, safety, and welfare of the public regarding any such relocation. Such relocation shall include restoring the Rights-of-Way to the same condition it was in prior to said relocation, in accordance with the terms of this Article. An Occupant shall, within three months, at its own expense, protect, or modify any part of its Facility when required by the City by reason of traffic safety, public safety, road construction, change of street grade, installation of water, stormwater, or sanitary pipes, traffic signal devices, or any other types of City improvement projects. The Public Work Director may recommend such actions in order to prevent interference by the Permittee's Facilities with a present or future City use of the Arterial Rights-of-Way; or a capital improvement project funded and scheduled to be undertaken by the City; or an economic development project in which the City has an interest or investment. The City Manager may also recommend such actions: when the public health, safety and welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way, both vehicular and pedestrian; or when aboveground equipment is located in such a manner as to create an obstruction to a driver's line of sight. The Occupant may for due cause make application to the City Manager for an extension to complete such relocation as required by this section.

The foregoing does not alter an Occupant's prior rights or obligations within an existing easement established prior to the dedication of Rights-of-Way in establishing the party responsible for the expense of any required relocation of equipment.

Section 14-411 PRE-EXCAVATION LOCATION OF EQUIPMENT

Before an Occupant shall commence to excavate in a roadway, street, alley or other Rights-of-Way as defined in this Article, such Occupant, unless otherwise exempt by state statute, shall first notify all operators in the City who are on file with the county clerk as to having underground Facilities within the county, pursuant to the Underground Facilities Damage Prevention Act, 63 O.S.1991, §§ 142.1, et seq., as supplemented; said notice shall be either directly or by notice to the statutory "Okie" One-call notification center. Each Occupant served

with notice in accordance with 63 O.S.1991, § 142.6, shall locate and mark or otherwise provide the location of the underground Facilities of the operator in such a manner as to enable the excavator to determine the precise location of the underground Facilities in advance of excavation. In any event, should the excavator in the course of excavation discover and damage an unmarked utility, the City of Cherokee shall be indemnified from liability for any damage that should occur due to the failure on the part of either the excavator or the Occupant.

Section 14-412 DAMAGE TO OTHER FACILITIES

A. Damage to Other Facilities. Each Occupant shall comply fully with the Underground Facilities Damage Prevention Act, 63 O.S.1991, §§ 142.1, *et seq.*, as supplemented.

Section 14-413 ABANDONED AND UNUSABLE FACILITIES

A. Discontinuing Operations. An Occupant that has determined to discontinue its operations in the City must either:

1. Obtain the consent of the City to transfer ownership control of its Facilities pursuant to Section 14-417 and ensure that the new owner or controlling entity has applied for registration prior to closing; or

2. Submit to the City, within ninety (90) days of the planned date for discontinuance of operation, a proposal and instruments for transferring ownership of its Facilities to the City. If a Permittee proceeds under this clause, the City may at its option:

- a. Purchase the Facilities; or,

- b. Require the Permittee, at its own expense, to remove the Facilities.

B. Abandonment. Facilities of an Occupant who fails to comply with the preceding paragraph and which, for twelve (12) months, remains unused, shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. Upon thirty (30) days' notice to the occupant, the City may exercise any remedies or rights it has at law or in equity, including but not limited to:

1. Abating the nuisance;
2. Taking possession of the Facilities and restoring them to a useable condition;
3. Requiring removal of the Facilities at the expense of the Occupant; or
4. Removing abandoned Facilities in any Rights-of-Way in

conjunction with a proposed construction project.

Section 14-414 RESERVATION OF REGULATORY AND POLICE POWERS

No provision of this Article, nor any action taken by the City pursuant to this Article, shall be deemed to surrender, waive, impair, or lessen the lawful powers and rights to regulate the use or occupancy of the Rights-of-Way that now or may be hereafter vested in the City under the Constitution and statutes of the state of Oklahoma or under the Charter of the City of Cherokee. By accepting a Rights-of-Way Construction Permit an Occupant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City as exist under applicable law to adopt and enforce general Articles necessary for the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and Articles enacted by the City, pursuant to such powers. Unless otherwise expressly provided by a Rights-of-Way Construction Permit, any conflict between the provisions of any such authorization and any other present or future lawful exercise of the City's regulatory or police powers shall be resolved in favor of the City.

Section 14-415 APPEALS

An appeal may be taken to the City Commission by any person aggrieved, where it is alleged there is an error in any order, requirement, decision or determination made by any person in the enforcement of this Code. The appeal must be presented upon written request to the City Clerk or his/her designee.

Section 14-416 REVOCATION

If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any franchise, permit, right or registration issued under this Article or any portion of this Article is illegal or unenforceable, then any such franchise, permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right of either party to terminate without cause upon giving sixty (60) days' written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the franchise, permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a franchise, permit, right or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Commission to issue such revocable permit and the power to revoke it.

Section 14-417 TRANSFERS

A. Notification Required. No Transfer shall occur without prior notice to the City Manager. Notice of the Transfer must meet the requirements of Section 14-413, as applicable, and provide complete information on the proposed transaction, including the legal, financial, technical and other pertinent qualifications of the transferee as deemed necessary by the City Manager.

B. No Waiver or Release. A transfer of a Rights-of-Way Construction Permit shall not constitute a waiver or release of any of the rights of the City.

Section 14-418 EXEMPTIONS

This Article applies, to the greatest extent permissible under applicable law, to all ROW Occupants. If, on the effective date of this Article, a person holds a Franchise, or has prior rights under a contract, and the terms of this Article conflict with or impose additional requirements or obligations not contained in the franchise or contract, that person is exempted from such terms of this Article and the terms of the Franchise shall control, to the extent required by the Franchise or contract and applicable law.

Section 14-419 ENFORCEMENT

A. Remedies for Violations. If a ROW Occupant violates any provision of this Article, the City Attorney may, after providing notice to the Occupant at the address provided in the Permit and a hearing in which the Occupant may appear and be heard, take one or more of the following actions:

1. Impose liquidated damages in the amount, if any, provided in the Rights-of-Way Construction Permit, whether per day, incident, or other measure of violation. Payment of liquidated damages by the Occupant does not relieve the Occupant of its obligation to meet the requirements of this Article;

2. Impose penalties pursuant to Section 14-420;

3. Reduce the duration of the Rights-of-Way Construction Permit on any basis the City determines is reasonable and affords the Occupant reasonable due process;

4. Revoke the Rights-of-Way Construction Permit pursuant to its terms or applicable law.

B. City Attorney's Discretion. In determining which remedy or

remedies are appropriate under subsection 14-419A, the City Attorney shall consider the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and any other matters the City Attorney determines are appropriate. In addition to or instead of these remedies, the City Attorney may seek legal or equitable relief from any court of competent jurisdiction.

C. Opportunity to Cure. Before initiating a remedy under this section, other than revocation of the Rights-of-Way Construction Permit, the City shall give the Occupant written notice of the violations claimed and at least twenty (20) working days to correct the violations.

Section 14-420 PENALTIES

The City Attorney shall have the authority to assess penalties against a ROW Occupant for failure to comply with the terms of its Rights-of-Way Construction Permit or any other portions of this Article. Any such assessment must be provided to the Occupant in writing with a Notice of Violation and provide for a reasonable opportunity to cure the violation, provided that the violation is not a result of inclement weather. If the Occupant fails to remedy the deficiency by the end of the twenty (20) day period, the penalty amounts shall begin to accrue and shall continue to accrue until the date that the deficiency is corrected.

A. For effecting or attempting to effect a transfer without approval: \$100.00 per day for each violation for each day the violation continues;

B. For failure to supply information, reports, or filings lawfully required under the terms of a ROW Construction Permit or applicable law or by the City: \$100 per day for each violation for each day the violation continues;

C. For failure to restore or repair damages to private property: \$300 per day, in addition to the cost of the restoration;

D. For any other violations of the City Code, Rights-of-Way Construction Permit, or other applicable law: \$200 per day for each violation for each day the violation continues.

E. For any other violations of the Cherokee Municipal Code, Occupancy Permit, Rights of way Construction Permit, or other applicable law: \$200 per day for each violation for each day the violation continues.

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CHAPTER 15 Traffic and Vehicles

ARTICLE 1

GENERAL PROVISIONS

Section 15-101 CITATION OF CHAPTER.

The chapter and all amendments hereto may be cited or referred to as the "Traffic Code, City of Cherokee", and may so appear upon all official documents, records or instruments.

Section 15-102 TRAFFIC CODE CONTROLLING.

Except as specifically provided by law as set forth in this chapter, the traffic code shall be controlling and apply to the use of city streets, alleys, thoroughfares, parks parkways, public parking lots, school driveways, streets, parking lots, or any other public right-of-way or municipally-owned land, including streets and other ways that form the boundary line of the city, by pedestrians and by vehicles of every kind whether self-propelled or otherwise and whether moving or at rest.

Section 15-103 DEFINITIONS.

As used herein:

1. "Alley" means any narrow highway ordinarily located in the interior portion of platted blocks and ordinarily used for service or delivery purposes at the rear of stores, dwellings, or buildings;
2. "Ambulance" means a motor vehicle constructed, reconstructed or arranged for the purpose of transporting ill, sick, or injured persons;
3. "Bicycle" means a device propelled by human power upon which any person may ride, having two (2) tandem wheels;
4. "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;
5. "Business district" means the territory contiguous to, and including a highway if there are buildings within six hundred (600) feet of the highway in use for businesses or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively

on both sides of the highway;

6. "Controlled access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway;

7. "Commercial vehicles" means every vehicle designed, maintained, or used primarily for the transportation of property;

8. "Center lane" means any clearly marked center lane. If the center lane is not marked and no cars are parked on the roadway, then the center lane is equally distanced between the curbs or traveled portion of the roadway. In the event a vehicle or vehicles are parked on one side of the roadway only, then the center lane is equally distanced from the side of the parked vehicle or vehicles toward the street and curb on the opposite roadway. If vehicles be parked on each side of the roadway, then the center lane is equally distanced from the edges of the parked vehicles;

9. "Cross walk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs; or in the absence of curbs from the edges of the traversable roadway. "Cross walk" also means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

10. "Double park" means parking or stopping a vehicle on the roadway side of another vehicle already parked adjacent to the edge or curbing of the roadway;

11. "Driver or operator" means a person who drives or is in actual physical control of a vehicle;

12. "Emergency" means an unforeseeable occurrence of temporary duration causing or resulting in an abnormal increase in traffic volume, cessation or stoppage of traffic movement, or creation of conditions hazardous to normal traffic movement, including fire, storm, accident, riot, or spontaneous assembly of large numbers of pedestrians in such a manner as to impeded the flow of traffic;

13. "Emergency vehicle" means vehicles of the fire department, police vehicles and ambulances;

14. "Highway", see street;

15. "Intersection" means:

- a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadway of two (2) streets, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets join at any other angle, may come in conflict; or
- b. Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersection street, shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such streets shall be regarded as separate intersections;

16. "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

17. "Limited access highway", see controlled access highway;

18. "Loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or material. A freight curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of freight; a passenger curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of passengers;

19. "Limit lines" means boundaries of parking areas, loading zones and non-traffic areas and lines indicating the proper place for stopping where stops are required;

20. "Motor cycle, motor scooter, and motor bicycle" mean a motor vehicle, other than a tractor, having a seat or saddle for the use of the driver and designed to travel on no more than three (3) wheels in contact with the ground, but excluding a tractor;

21. "Motor vehicle" means every vehicle which is self-propelled;

22. "Official time" shall mean whenever certain hours are named herein they shall mean Central Standard Time, or Daylight Savings Time, as may be in current use in the city;

23. "Official traffic control device" means all signs, signals, markings, and devices not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

24. "Park or parking" means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading merchandise or passengers, providing such loading and unloading is an authorized place;

25. "Pedestrian" means any person a foot;

26. "Police officer" means every officer of the municipal police department, or any officer authorized to direct or regulate traffic, or to make arrests for violation of traffic regulations;

27. "Private road or roadway" means a way or place in private ownership or leading to property in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner;

28. "Public parking lot" means a parking lot or right of way dedicated to the public use or owned by the state or a political subdivision thereof;

29. "Railroad" means a carrier of persons or property upon cars other than streetcars operated upon stationary rails;

30. "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

31. "Residence district" means the territory contiguous to and including a highway not comprising a business district;

32. "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other;

33. "Roadway" means that portion of a street improved, designed, ordinarily used for vehicular travel, exclusive of the shoulders. In the event a street includes two (2) or more separate roadways, the term roadway, as used herein, shall refer to any such roadway, separately, but not to all such roadways, collectively;

34. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times, while set apart as a safety zone;

35. "School zone" means all streets or portions of streets

immediately adjacent to a school, or school ground, where same is adjacent and for a distance of three hundred (300) feet in each direction;

36. "Sidewalk" means that portion of a street between the curblines or at lateral lines of the roadway and adjacent property lines, intended for the use of pedestrians;

37. "Stand" or "standing" means any stopping of a vehicle whether occupied or not;

38. "Stop", when required, shall mean the complete cessation from movement;

39. "Stop or stopping", when prohibited, means any halting even momentarily of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic signal;

40. "Street or highway" means the entire width between the boundary liens of every way publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel;

41. "Through street or highway" means a street, or boulevard or highway or portion thereof at the entrances to which:

- a. Vehicular traffic from intersecting streets or highways is required by law to come to a full stop before entering or crossing; and
- b. Stop signs are erected as provided in this part;

42. "Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances, either singularly or together, while using any highway or street for purpose of travel;

43. "Traffic control devices or signals" mean any device legally authorized and used for the purpose of regulating, warning or guiding traffic;

44. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter mile or more;

45. "U-turn" means a turn by which a vehicle reverses its course of travel on the same street; and

46. "Vehicle" means every device in, upon or by which any person

or property is, or may be transported, or drawn, upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks.

State Law Reference: Definitions, state traffic code, 47 O.S. Section 1-101 et seq.

Section 15-104 ADOPTION OF STATE TRAFFIC CODE.

The provisions of the state motor vehicle code, Sections 1-101 et seq. of Title 47 of the Oklahoma Statutes, and the Rules of the Road, Sections 10-101 et seq. of Title 47 of the Oklahoma Statutes, are hereby adopted and incorporated herein by reference, and are enforceable by the city within the city limits as if set out at length herein.

State Law Reference: State rules of the road, 47 O.S. Section 10-101 et seq.; state motor vehicle code, 47 O.S. Section 1-101 et seq.

ARTICLE 2

ENFORCEMENT AND GENERAL PROVISIONS

Section 15-201 ENFORCEMENT OF TRAFFIC LAWS; ESTABLISHMENT OF TRAFFIC CONTROL DIVISIONS.

It is the duty of the officers of the police department or any officers that are assigned by the chief of police to enforce all street traffic laws of this city and all the state vehicle laws applicable to street traffic in this city. Officers of the department shall make arrests for traffic violations, investigate accidents, and cooperate with other officers in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this part and any other traffic ordinances of this city. Officers may issue written notice to appear to any driver of a vehicle involved in an accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under the provisions of the traffic code in connection with the accident.

Section 15-202 DIRECTION OF TRAFFIC BY HAND OR VOICE.

A. Officers of the police department or any officers designated by the chief of police are hereby authorized to direct traffic by voice, hand, or signal in conformance with traffic laws and ordinances. In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the

traffic laws and ordinances.

B. Officers of the fire department, when at the scene of a fire, or other emergency, may direct or assist the police in directing traffic in the immediate vicinity.

Section 15-203 DIRECTION OF TRAFFIC BY UNAUTHORIZED PERSONS.

No unauthorized person shall direct or attempt to direct traffic, except in case of emergency where no officer is present.

Section 15-204 OBEDIENCE TO POLICE AND FIRE OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Section 15-205 EMERGENCY AND EXPERIMENTAL REGULATIONS.

A. The City Manager, subject to any directions which the City Commission may give by motion or resolution, is empowered to adopt regulations necessary to make effective the provisions of the traffic ordinances of this city and to make temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The City Manager may have traffic control devices tested under actual conditions of traffic.

Section 15-206 PUSH CARTS, RIDING ANIMALS, OR DRIVING ANIMAL-DRAWN VEHICLES TO COMPLY WITH CODE.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

State Law Reference: Similar provisions; 47 O.S. Section 11-104.

Section 15-207 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk; and when so crossing, such person shall be subject to all of the duties applicable to pedestrians. This Section shall not apply upon any street while set

aside as a play street as authorized by ordinances of this city.

Section 15-208 PUBLIC OFFICERS AND EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, any state, county, city, or governmental unit or agency, as well as to other vehicles. It is unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted by state statute. This chapter shall not apply to the military forces of the United States and organizations of the National Guard when performing any military duty.

State Law Reference: Municipal drivers to obey state rules of the road, 47 O.S. Section 16-103.

Section 15-209 PERSONS WORKING ON STREETS, EXCEPTIONS.

Unless specifically made applicable, the provisions of this chapter, except those relating to reckless driving and driving while intoxicated, shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a street, or to persons, motor vehicles, and other equipment while actually engaged in construction, maintenance, or repair of public utilities. All street or highway and public utility operations shall be protected by adequate warning signs, signals, devices, or flag persons. The provisions of this chapter shall apply to any of the persons and vehicles exempted by this Section when traveling to and from such work.

Section 15-210 MAINTENANCE AND CONSTRUCTION ZONES.

A. City personnel or contractors, while repairing or improving the streets of the city, and city personnel and utility companies, when installing, improving, or repairing lines or other utility facilities in the streets, are hereby authorized as necessary, subject to control by the City Manager, to close any street or section thereof to traffic during such repair, maintenance, or construction. In exercising this authority, the appropriate personnel, contractor or utility company shall erect or cause to be erected proper control devices and barricades to warn and notify the public that the street has been closed to traffic.

B. When any street has been closed to traffic under the provisions of Subsection A of this Section and traffic control devices or barricades have been erected, it is unlawful for any person to drive any vehicle through, under, over, or around such traffic control devices

or barricades, or otherwise to enter the closed area.

The provision of this subsection shall not apply to persons entering the closed area or zone for the protection of lives or property. Persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

C. Whenever construction, repair or maintenance of any street or utility line or facility is being performed under traffic, the city personnel, contractor, or utility company concerned shall erect, or cause to be erected, traffic control devices to warn and guide the public. Every person using the street shall obey all signs, signals, markings, flag persons, or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.

Section 15-211 AUTHORIZED EMERGENCY VEHICLES.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions stated in this Section.

B. The driver of an authorized emergency vehicle may do any of the following when in pursuit of an actual or suspected violator of the law or ordinance or when responding to but not returning from a fire alarm:

1. Park or stand, irrespective of the provisions of this chapter;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as life or property is not endangered; or
4. Disregard regulations governing direction of movement or turning in specific directions.

C. The exemptions granted in this Section to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. The provisions of this Section shall not relieve the driver

of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

State Law Reference: Emergency vehicle driving rules, 47 O.S. Section 11-106.

Section 15-212 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

State Law Reference: Authorized emergency vehicles and their equipment, 47 O.S. Section 11-106, 11-405, and 12-218; approach of emergency vehicles, 47 O.S. Section 11-405.

Section 15-212.1 ELUDING POLICE OFFICERS

A. No person operating a motor vehicle who has received a visual and audible signal (a red light and a siren in the case of a clearly designated police vehicle driven by a police officer) directing the operator to bring his vehicle to a stop shall willfully increase his speed or extinguishes his lights or in any other manner attempt to or actually elude such police officer.

B. Any person convicted of violating any of the provisions of Subsection A shall be punished by a fine of not to exceed \$500.00, plus costs.

Section 15-213 FOLLOWING EMERGENCY VEHICLES PROHIBITED.

The driver of any vehicle other than the one on official business shall not follow any police vehicle, ambulance, civil defense vehicle, fire apparatus, or other emergency vehicle traveling in response to an emergency call or request closer than five hundred (500) feet, or drive

into or park such vehicle within the block where the emergency vehicle has stopped in answer to an emergency call.

State Law Reference: Similar provisions, 47 O.S. Section 11-1108(a).

Section 15-214 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a fire department used at any fire or alarm of fire, without the consent of the fire department official in command.

State Law Reference: Similar provisions 47 O.S. Section 11-1109.

Section 15-215 POSSESSION OF VALID DRIVER'S LICENSE REQUIRED.

A. No person shall operate any motor vehicle on the highways without having in his possession at all times, when operating such motor vehicle, an unrevoked or unsuspended operator's or chauffeur's license as required by the laws of the state, unless such person is specifically exempted from such laws by the provisions thereof. No person charged with violating this Section shall be convicted if he produces incourt an operator's or chauffeur's license issued to him and valid at the time of his arrest.

B. No person shall operate a motor vehicle in any manner in violation of any restriction that may be imposed in a restricted license issued to him.

State Law Reference: Driver's licenses, 47 O.S. Section 6-101.

Section 15-216 OPERATION OF VEHICLE ON INVALID LICENSE PROHIBITED.

No person shall operate a motor vehicle when his privilege to do so is canceled, suspended, revoked or denied. Any person convicted of violating this Section shall be punished as provided in Section 1-108 of this code. Each act of driving on the streets or highways as prohibited by this Section shall constitute a separate offense.

Section 15-217 UNLAWFUL TO OPERATE VEHICLE WITHOUT STATE VEHICLE LICENSE.

It is unlawful to operate a vehicle of any kind upon a street of the city without a state vehicle license as may be required by law or to fail to display the state vehicle license as may be required by law.

Section 15-218 PERMITTING UNAUTHORIZED PERSON TO DRIVE PROHIBITED.

No person shall authorize or knowingly permit any vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the provisions of the laws of the state to operate such vehicle.

Section 15-219 ACCIDENTS, DUTY TO STOP, LEAVING SCENE OF ACCIDENT.

A. The driver of any vehicle involved in an accident resulting in injury to, or death of, any person shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsections C and D hereof. Every such stop shall be made without obstructing traffic more than is necessary.

B. The driver of any vehicle involved in an accident resulting only in damage to a vehicle, which is driven or attended by any person, shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible, and shall forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsection C hereof. Every such stop shall be made without obstructing traffic more than is necessary.

C. The driver of any vehicle involved in an accident shall give his correct name and address and the registration number of the vehicle he is driving; and shall exhibit his operator's or chauffeur's license to the person struck, or the driver, or person injured in the accident reasonable assistance. If the driver does not have any operator's or chauffeur's license in his possession, he shall exhibit other valid evidence of identification to the occupants of a vehicle, or to the person collided with.

D. The driver shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

E. Any driver of any vehicle involved in an accident who is cited for any traffic offense where said accident resulted in the immediate death of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs. The traffic offense violation shall constitute probable cause for purposes of 47 O.S.

Section 752 and the procedures found in Section 752 shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

F. Any person failing to stop or to comply with any of the requirements of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, accident reports, 47 O.S. Section 6-303.

Section 15-220 DUTY OF STRIKING UNATTENDED VEHICLES, FIXTURES.

A. The driver of any vehicle which collides with a vehicle which is unattended shall immediately stop, and shall then and there either locate and notify the operator or owner of the vehicle, of the correct name and address of the driver and the owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in or on the vehicle struck a written notice giving the correct name and address of the driver and of the owner of the vehicle doing the striking, and shall provide the same information to an officer having jurisdiction.

B. The driver of any vehicle involved in an accident resulting in damage to fixtures legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property, of the fact, and of his name and address, and of the registration number of the vehicle he is driving, and shall exhibit his operator's or chauffeur's license, if the operator's or chauffeur's license is in his possession at that time, and the driver shall make report of such accident when and as required by law.

Section 15-221 REPORTING ACCIDENTS.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or in which it is apparent that damage to one vehicle or to the property is in excess of Three Hundred Dollars (\$300.00) shall, as soon as practicable, report such accident to a police officer or to the police department unless settlement of the collision has been made within six (6) months after the date of the accident. If a driver makes out a written report of the accident in the office of the police department as soon as practicable after the accident, which report is to be forwarded to the State Department of Public Safety in accordance with state law, the driver shall be deemed to be in compliance with this Section.

State Law Reference: Similar provisions, 47 O.S. Section 10-108.

Section 15-222 ISSUANCE OF CITATION TAGS.

A. Police officers are hereby authorized to give notice to persons violating provisions of this article by delivering citation tags to violators or, in cases where vehicles without drivers are parked or stopped in violation of this chapter, by affixing such tags to the vehicles by means of which the violation occurred. Such citation tags, among other things, shall bear briefly the charge, shall bear the registration number of the vehicle, and shall direct the violator to present the tag at the police station or other designated place within the time as may be specified thereon.

B. Nothing in this Section shall be construed to abridge the power of the police officer to arrest any violator and take him into custody.

C. The chief of police may require that the police officers use citation tags furnished by the city and that such tags are serially numbered and may regulate the use and handling of the citation tags.

Section 15-223 WHEN COPIES OF CITATIONS SHALL BE DEEMED A LAWFUL COMPLAINT.

In the event that form of citation provided herein includes information and is sworn to, then such citation, when filed with the municipal court, shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter.

Section 15-224 FAILURE TO COMPLY WITH TRAFFIC CITATIONS ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of days as specified on the citation, the clerk of the municipal court may send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for the specified period of days, a warrant of arrest may be issued. On any occasion where two (2) or more such traffic citations have been affixed on the same motor vehicle and the traffic citations have been disregarded, a warrant of arrest may be issued without sending the letter provided in this Section.

Section 15-225 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in

violation of any law or regulation, together with the proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

B. The presumption in Subsection A of this Section shall apply only when the procedure as prescribed in this Section has been followed.

Section 15-226 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than is provided by this chapter.

Section 15-227 COURT RECORDS; ABSTRACT TO BE SENT TO STATE DEPARTMENT OF PUBLIC SAFETY.

A. The municipal judge shall keep a record of every traffic citation deposited with or presented to the court and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture.

B. Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicle on highways, the municipal judge or clerk of the court in which the conviction was had or bail was forfeited shall prepare and immediately forward to the State Department of Public Safety a certified abstract of the court's record of the case. An abstract need not be made of any conviction involving the illegal parking or standing of a vehicle.

C. The municipal judge or court clerk shall not make such a report of a conviction involving speeding if the speed limit is not exceeded by more than ten (10) miles per hour.

D. The abstract must be made upon a form furnished by the State Department of Public Safety and shall include the name and address of the party charged, the number of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgement, whether bail was forfeited, and the amount of the fine or forfeiture.

Section 15-228 INSURANCE OR CERTIFICATE REQUIRED.

A. The owner of a motor vehicle registered in this state and operating the vehicle within the city's boundaries, shall carry in such vehicle at all times a current owner's security verification form listing the vehicle, or an equivalent form which has been issued by the State Department of Public Safety which shall be produced by any driver thereof upon request for inspection by any law enforcement officer and, in case of collision, the form shall be shown upon request to any person affected by the collision.

B. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the department during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

1. Any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof;

2. Any vehicle bearing the name, symbol or logo of the business, corporation or utility on the exterior and which is in compliance with the Compulsory Insurance Law according to records of the Department of Public Safety and which reflect a deposit, bond, self-insurance, or fleet policy;

3. Any vehicle authorized for operation, under a permit number issued by the Interstate Commerce Commission, or the Oklahoma Corporation Commission;

4. Any licensed taxicab; and

5. Any vehicle owned by a licensed motor vehicle dealer.

C. For the purpose of this Section, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Owner's Policy" means an owner's policy of liability insurance which:

- a. Shall designate by explicit description or by appropriate reference all vehicle with respect to which coverage is thereby to be granted;

- b. Shall insure the person named therein and insure any other person, except as provided in Subparagraph C of this paragraph, using an insured vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the

ownership, maintenance, operation or use of such vehicle;

- c. May provide for exclusions from coverage in accordance with existing laws; and
- d. Shall be issued by an authorized carrier providing coverage in accordance with Section 7-204 of Title 47 of the Oklahoma Statutes;

2. "Operator's Policy" means an operator's policy of liability insurance which shall insure the named person against loss from the liability imposed upon him by law for damages arising out of the operation or use by him of any motor vehicle not owned by him, subject to the same limits of liability required in an owner's policy:

- a. A policy or bond meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes;
- b. A deposit of cash or securities having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond; or
- c. Self-insurance, pursuant to the provisions of Section 7-503 of Title 47 of the Oklahoma Statutes, having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond;

4. "Compulsory Insurance Law" means the law requiring liability insurance in conjunction with the operation of a motor vehicle in this state as found in Article VI, Chapter 7, and Section 7-606 of Title 47 of the Oklahoma Statutes; and

5. "Security verification form" means a form, approved by the State Board for Property and Casualty Rates, verifying the existence of security required by the Compulsory Insurance Law of the State of Oklahoma;

D. Every operator of a motor vehicle registered in this state, shall while operating or using such vehicle within the city's boundaries, carry either an operator's or an owner's security verification form issued by a carrier, providing the operator is not excluded from the coverage thereon; or an equivalent form issued by the Department of Public Safety, reflecting liability coverage.

E. An owner or operator who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the department upon request of any peace officer of

the department shall be guilty of an offense and upon conviction shall be subject to a fine as provided in Section 1-108 of this code.

F. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the department reflecting this liability coverage of such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge. Court costs may be assessed by the city.

G. Upon conviction or bond forfeiture, the court clerk shall forward an abstract to the State Department of Public Safety within ten (10) days reflecting the action taken by the court.

State Law Reference: Similar provisions, 47 O.S. Section 7-601 et seq.

Section 15-229 TEXTING WHILE DRIVING PROHIBITED; DEFINITIONS; EXCEPTION

A. Definitions. For the purpose of this section:

1. "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;
2. "Compose", "send" or "read" with respect to a text message means the manual entry, sending or retrieval of a text message to communicate with any person or device;
3. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a device that is physically or electronically integrated into a motor vehicle or a voice-operated global positioning or navigation system that is affixed to a motor vehicle, or a hands-free device that allows the user to write, send or read a text message without the use of either hand except to activate, deactivate or initiate a feature or function; and
4. "Text message" includes a text-based message, instant message, electronic message, photo, video or electronic mail.

B. It shall be unlawful for any person to operate a motor vehicle on any street, alley or highway within the City while using a hand-held electronic communication device to manually compose, send or read an electronic text message while the motor vehicle is in motion.

- C. Any person who violates the provisions of subsection B of this section shall, upon conviction, be punished by a fine of Seventy Dollars (\$70.00) and court costs.
- D. The provisions of subsection B of this section shall not apply if the person is using the cellular telephone or electronic communication device for the sole purpose of communicating with any of the following regarding an imminent emergency situation:
1. An emergency response operator;
 2. A hospital, physician's office or health clinic;
 3. A provider of ambulance services;
 4. A provider of firefighting services; or
 5. A law enforcement agency.

ARTICLE 3

VEHICLE EQUIPMENT, INSPECTION

Section 15-301 CERTAIN VEHICLES PROHIBITED; VEHICLES INJURIOUS TO STREETS.

No vehicle or object which injures or is likely to injure the surface of a street, shall be driven or moved on any street.

State Law Reference: Required equipment of vehicles, 47 O.S. Section 12-101 et seq.

Section 15-302 OBSTRUCTIVE AND DANGEROUS VEHICLES.

No person shall drive any vehicle in such condition, so constructed, or so loaded, as to cause delay or be likely to cause delay in traffic, or as to constitute a hazard to persons or property, except by permit issued by the chief of police and in accordance with the terms of such permit.

Section 15-303 EQUIPMENT.

Every vehicle operated upon the streets of the city shall be equipped as required by law. It is unlawful to operate a vehicle upon a street of the city which is not equipped as required by law. It is unlawful to fail to use such equipment in the manner required by law, or to use it in a manner prohibited by law. It is unlawful

to operate a vehicle which has equipment prohibited by law upon a street of the city.

State Law Reference: For state law relating to equipment, see 47 O.S. Section 12-201 et seq.

Section 15-304 MUFFLERS, CUT-OUTS.

It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise. No muffler cut-out, by-pass or similar muffler elimination device, exhaust or vacuum whistle shall be used on any motor vehicle while operating within the city; however, exhaust whistles may be used on authorized emergency vehicles.

Section 15-305 WIDTH, HEIGHT, LENGTH AND LOAD.

No person shall drive or convey through any street any vehicle the width, height, length, weight, or load of which exceeds that authorized by state law, except in accordance with a permit issued by state authority or by the chief of police.

Cross Reference: See also Section 16-536 of this code on trucks.

State Law Reference: For state law relating to size, weight, and load, see 47 O.S. Section 14-101 et seq.

Section 15-306 INSPECTION OF VEHICLES.

A. No person shall drive or move on any road, street, or highway of this city any motor vehicle, including motorcycles, trailers, semi-trailers, or pole trailers, which are licensed by the Oklahoma Tax Commission and operated on the streets or highways, of this city, or any combination thereof, unless the vehicle is:

1. In good working order and adjustment and is in such safe mechanical condition as not to endanger the driver or other occupants; and

2. Bearing a valid official inspection sticker issued by an official inspection station licensed by the Department of Public Safety.

The provisions of this Section shall not apply to any house trailer, which requires a permit to be moved upon the highways of

this state.

B. Any person who violates the provisions of this Section shall upon conviction thereof, be subject to punishment as provided in Section 1-108 of this code.

Section 15-307 MUNICIPALLY OWNED ALL-TERRAIN VEHICLES AND MUNICIPALLY OWNED GOLF CARTS

Municipally owned all-terrain vehicles (hereinafter "all-terrain vehicles") and municipally owned golf carts (hereinafter "golf carts"), may be operated on the city streets within the corporate limits of the City of Cherokee, subject to the following rules and conditions:

1. All-terrain vehicles and golf carts shall not be registered pursuant to the provisions of the Oklahoma Vehicles License and Registration Act.
2. All-terrain vehicles and golf carts shall not be operated on any state or federal highway located within the corporate limits of the City of Cherokee, except that such restriction shall not apply to the crossing of any state or federal highway at an approximate ninety (90) degree angle at an improved intersection, unless the posted speed limit on the state or federal highway being crossed is more than thirty-five miles per hour in the area of the crossing, and in such event the all-terrain vehicles and golf carts may not cross such state or federal highway.
3. All-terrain vehicles and golf carts shall be operated only during daylight hours.
4. Miscellaneous:

A. Application of Traffic Laws to All-Terrain vehicles and Golf Carts

Every person operating an all-terrain vehicle or golf carts upon city streets shall be granted all rights and shall be subject to all the duties applicable to the driver of motor vehicles by the laws of this state and the traffic provisions of this code applicable to the driver of motor vehicle (excepting required equipment regulations shall not be required).

B. Obedience to Traffic Control Devices.

Any person operating an all-terrain vehicle or golf cart upon city streets shall obey the instructions of official traffic control signals, signs and other control devices applicable to motor vehicles, unless otherwise directed by a police officer.

C. Operating All-Terrain Vehicles and Golf Carts

1. No person operating an all-terrain vehicle or golf cart shall ride other than upon the permanent and regular seat affixed thereto.
2. No all-terrain vehicle or golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped.
3. Every person operating an all-terrain vehicle or golf cart upon the city streets shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle proceeding in the same direction.

D. Speed of the All-Terrain Vehicle or Golf Cart

No person shall operate an all-terrain vehicle or golf cart at a speed greater than is reasonable and prudent under the conditions then existing.

E. License

No person shall operate an all-terrain vehicle or golf cart on the city streets without having in his possession at all times a valid operator license as required by the laws of the state, when operating the all-terrain vehicle or golf cart on the city streets, unless such person is specifically exempted from such laws by any provision contained in this Chapter or federal or state law or regulation.

Section 15-308 UTV AND GOLF CART REGULATIONS

1. Definitions.

The following words shall have the following meaning in this section:

"Golf Cart" shall mean a vehicle specifically designed and intended for the purpose of transporting one or more persons and their golf clubs or

maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

"UTV" or "utility vehicle" shall mean a vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people, and a steering wheel, traveling on four or more wheels, or as such definition may be hereinafter amended by Tit. 47, Section 1102 of the Oklahoma Statutes.

2. Policy Statement:

This section is adopted in the interest of public safety. Golf Carts and/or UTVs are not designed or manufactured to be used on public streets and roads, and the City of Cherokee in no way advocates or endorses the operation of Golf Carts and/or UTVs on streets or roadways. The City of Cherokee, by regulating such operation, is merely addressing safety issues. This section is not to be relied upon as a determination that operation on streets is safe or advisable even if done in accordance with this section. All persons operating Golf Carts and/or UTVs must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and other pedestrians. All persons who operate or ride Golf Carts and/or UTVs on streets inside the corporate city limits of the City of Cherokee do so at their own risk and peril. The City of Cherokee has no liability under any theory of liability for permitting Golf Carts and/or UTVs to be operated on the streets of the City of Cherokee, Oklahoma.

3. Rules and Regulations. Golf Carts and/or UTVs may only be operated on streets within the City of Cherokee in accordance with the following rules and regulations:

- a. Any person who operates a Golf Cart and/ or UTV in the City of Cherokee takes full responsibility for all liability associated with operating such vehicle. Any and all Golf Carts or UTVs operated upon the streets must be insured by a currently effective liability insurance policy in the same minimum amount as is required for motor vehicles which operate upon the street by the laws of the State of Oklahoma and their drivers shall further possess on their person, while operating such Golf Cart and/or UTV, proof of such liability insurance.
- b. No person shall operate a Golf Cart and/or UTV on any street without having in his/her possession at all times, an unrevoked and unsuspended operator's or chauffeur's license as required by the laws of the state to operate a motor

vehicle and further with such person being at least sixteen (16) years of age.

- 1) Any person who is at least sixteen (16) years of age or older than does not have his/her driver's license shall be permitted to operate a Golf Cart pursuant to the provisions of this section, as long as there is a licensed driver that is twenty-one (21) years of age or older in the front seat of said Golf Cart.
- 2) The registered owner of said Gold Cart has submitted the "release of Liability" for the unlicensed person that is at least sixteen (16) years of age or older.
 - i. All "Release of Liability" should release the City of Cherokee of any liability for the unlicensed driver should an accident occur with an unlicensed driver of a Golf Cart; and
 - ii) All "Release of Liability" should specifically name the authorized driver(s) that are at least sixteen (16) years of age or older, that do not have a valid driver's license, but are authorized to drive said Gold Cart; and
 - iii) Any "Release of Liability" on file should be noted on the Golf Cart permit, along with the name of the authorized driver.
- c) No person shall operate, and no owner of any Golf Cart and/or UTV shall permit another person to operate a Golf Cart and/or UTV upon any City of Cherokee street unless such operator is in full compliance with this section.
- d) Golf Carts and/or UTVs may not operate at any time upon U.S. Highway 64 except when making a perpendicular crossing of U.S. Highway 64 at approximately ninety (90) degrees and then only in locations where the posted speed limit on the U.S. Highway 64 is 35 mph or less.
- e) Golf Carts and/or UTVs operating upon the streets in locations may not be equipped with enhanced muffler systems which when operated are unreasonably louder than stock systems and no person shall operate any Golf Cart and/or UTV that unreasonably disturbs the peace and quiet of any person or neighborhood.

- f) Application of Traffic Laws to Golf Carts and/or UTVs. Every person operating a Golf Cart and/ or UTV upon the streets shall be granted all rights and shall be subject to all the duties applicable to the driver of a motor vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a motor vehicle.
- g) Obedience to Traffic Control Devices. Any person operating a Golf Cart and/or UTV upon the streets shall obey the instructions of official traffic control signals, signs and other traffic control devices applicable to vehicles, unless otherwise directed by a police officer.
- h) It shall be an offense for any person to operate a Golf Cart and/or UTV at any location not specifically provided for hereinabove or in violation of any of the provisions of this section.
- i) Golf Carts and/or UTVs operating upon the streets must be equipped with headlights, running lights (front and rear), tail lights and brake lights of a type, kind and nature equal to or better than such similar equipment required on motorcycles authorized to travel on state highways, with such headlights and running lights illuminated at all times the Golf Cart and/or UTV is being operated.
- j) Golf Cart and/or UTV may not be operated on the sidewalk.
- k) Golf Cart and/or UTV drivers must yield the right-of-way to overtaking vehicles at all times.
- l) Any person who operates a Golf Cart and/or UTV on the streets of the City of Cherokee must adhere to all applicable state laws concerning the possession and use of alcoholic beverages and all illegal drugs, as well as all other state traffic laws.
- m) The maximum occupancy of Golf Cart and/or UTV traveling on City of Cherokee streets shall be equal to the amount of safety belts or passenger restraints in the Golf Cart and/or UTV, if originally equipped.
- n) Golf Carts and/or UTVs are only allowed to park in

handicapped parking spaces if the driver or at least one passenger has a valid handicapped parking sticker.

- o) The operator of a Golf Cart and/or UTV shall obey all ordinances of the City of Cherokee and all provisions of the Oklahoma Motor Vehicle Code, as amended from time to time, and which ordinances are incorporated herein as if set out in full.
- p) No person shall operate a UTV and/or Golf Cart in an alley except for an alley adjacent to such person's residence or place of business and then only for the purpose of entering or exiting such location.
- q) Miscellaneous Rules:
 - 1. No person operating a Golf Cart and/or UTV shall ride other than upon the permanent and regular seat affixed thereto.
 - 2. Every person operating a Golf Cart and/or UTV upon the streets shall ride as near to the right-hand side of the street as practicable and shall not pass any vehicle being operated in the same direction of travel.
 - 3. Every person driving a Golf Cart and/or UTV upon any street shall ride only one (1) abreast.
 - 4. The operator of a Golf Cart and/or UTV shall yield the right-of-way to all pedestrians and vehicles approaching or traveling along on any city street or other authorized location.

4. Required Equipment:

A Golf Cart and/or UTV operated on a City of Cherokee street shall have the following equipment in good working condition at all times:

- a. Brakes
- b. Steering apparatus
- c. Tires
- d. Rearview mirror
- e. Headlights that emit white light visible from at least 500

feet to the front

- f. Taillights that emit red light visible from at least 100 feet from the rear
- g. Brake lights on the rear.

5. Insurance:

Prior to said operation of Golf Cart and/or UTV, the owner of Golf Cart and/or UTV shall provide to the City Clerk or any other designated by the City Manager, proof of liability insurance in the amount no less than ten thousand (\$10,000.00) insuring the general public against personal and/or property damage as a result of the action by the person on said Gold Cart and/or UTV.

6. Permits:

- a. No person shall operate a Golf Cart and/or UTV upon the streets without obtaining a permit from the City of Cherokee as provided in this section.
- b. The Permit shall cover the assigned Golf Cart and/or UTV for the assigned calendar year, as specified on the Golf Cart and/or UTV permit.
- c. The cost of the Permit will be \$40.00. Insurance coverage shall be verified as effective when issuing or renewing a permit.
- d. After completion of the application, the applicant shall present the Golf Cart and/or UTV to the Chief of Police, or his designee, for an inspection to determine whether the Golf Cart and/or UTV may be operated on the streets. If the applicant and Golf Cart and/or UTV are qualified under the terms and conditions of this section, a permit shall be issued to the applicant. The Police Department, or designee, shall issue a sticker as visible proof of compliance, which shall be valid for the duration of one calendar year, or otherwise specified on permit/sticker. The permit sticker should at all times be displayed on the rear bumper or other location of the Golf Cart and/or UTV as designated by the Police Chief or his designee.
- e. Golf Cart and/or UTV owners must complete the permit application form on file in the Office of the City Clerk. The completed forms will be maintained by the City of Cherokee Police Department.

7. Enforcement:

- a. Except as otherwise provided, the City of Cherokee may prosecute violators for any act constituting a violation of this section. Any person who violates any provisions of this section shall be guilty of an offense and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00), plus court costs, fees and state assessments, if applicable, unless a different fine is otherwise specified elsewhere in this municipal code.
- b. The permit for a Golf Cart and/or UTV issued pursuant to this section may be suspended by the Chief of Police, or his designee, if (1) there is any material misrepresentation made by the applicant on the application or (2) the required liability insurance is no longer in full force and effect or (3) there is evidence that the permit holder can no longer safely operate the Golf Cart and/or UTV or (4) for any reason that such Police Chief reasonably believes is appropriate to insure the safety and well-being of the citizens of the City of Cherokee.
- c. The Chief of Police, or his designee, shall issue a notice of suspension of a permit in writing and either hand deliver the notice to the permit holder or send the notice by U.S. mail, with receipt of service, to the permit holder at the address on the application. The suspension of the permit shall be effective immediately after personal service, or on the third day after the mailing of the written notice.
- d. Repeat offenders may have the privileges granted by this section revoked by the Police Chief. Appeals to the decision of the Chief of Police may be appealed to the Cherokee City Manager, if a written appeal is filed with the City Clerk within ten (10) days of the date of the written notice revoking the permit.

ARTICLE 4

SPEED REGULATIONS

Section 15-401 SPEED LIMITS GENERALLY, EXCEPTIONS.

- A. No vehicle shall be driven at a greater speed than thirty (30) miles per hour in the city except;
 - 1. On designated and numbered state and federal highways, the maximum is as posted;

2. Emergency vehicles being lawfully driven as provided in this code;

3. When a different speed limit is otherwise designated and posted; or

4. When a different speed limit is established and posted as required in this code.

B. City personnel, subject to such direction as the City Manager and City Commission may give by motion or resolution, may reduce or increase the speed limits provided in this code, and when so provided, appropriate signs shall be placed on such streets or parts of streets indicating the lower or higher speed limit.

State Law Reference: Basic and minimum speed rules, 47 O.S. Section 11-801, 11-804, city powers 47 O.S. Section 22.1.

Section 15-402 SCHOOL ZONES.

No vehicle shall be driven at a greater speed than that posted speed per hour between the hours posted on any street adjacent to any school in a designated school zone on days when school is in session, unless a different speed limit or time is otherwise designated and posted.

State Law Reference: Local authority to set speed limits, 47 O.S. Section 15-102, 11-803.

Section 15-403 SPEED NEVER TO EXCEED THAT WHICH IS REASONABLE OR PRUDENT FOR EXISTING CONDITIONS; SPECIFICATIONS.

No person shall drive a vehicle at a speed greater or less than is reasonable or prudent under the conditions then existing, taking into consideration among other things, the condition of the vehicle, the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, and the obstruction of views. No person shall drive any vehicle at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

Section 15-404 MINIMUM SPEED REQUIREMENTS; EXCEPTIONS.

No vehicle shall be driven at such an unreasonable slow speed in relation to the effective maximum speed allowed as to constitute a hazard or to interfere with the normal movement of other traffic except when the slow speed is unavoidable.

Section 15-405 OBEDIENCE TO MAXIMUM AND MINIMUM SPEED LIMITS.

Where official signs and markings give notice of both maximum and minimum speed limits in effect on any street, no vehicle shall be driven at rates in excess of the maximum nor slower than the minimum except as required by an authorized officer or in obedience to posted official signs.

ARTICLE 5

DRIVING, OVERTAKING, PASSING

Section 15-501 CHANGING LANES.

A. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, in addition to all other rules consistent with this subsection, a vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and has signaled for a change of course.

B. Where streets or roadways do not have marked traffic lanes, vehicles shall nevertheless keep in line or follow a straight course as nearly as practical and shall not weave in and out or turn from side to side unnecessarily. Vehicles shall move to the right or left only as necessary in slowing or stopping adjacent to the curb, in passing slow moving vehicles or making a proper approach for a turn, and this only after the driver has first ascertained that such movement can be made safely and has signaled for a change of course.

C. Upon a roadway which has been divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

D. Official signs may be erected directing the slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Drivers of vehicles shall obey the directions of every such sign.

Section 15-502 DRIVING ON RIGHT SIDE OF ROADWAY REQUIRED; EXCEPTIONS.

A. Upon all roadways of sufficient width, a vehicle shall be driven to the right of the center of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When the right half of a roadway is closed to traffic while under construction or repair;

3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; and

4. Upon a roadway designated and signposted for one-way traffic.

B. All vehicles shall keep to the right roadway on all streets or highways which are divided into two (2) roadways.

C. Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

State Law Reference: Similar provisions, 47 O.S. Section 11-301.

Section 15-503 WHEN OVERTAKING ON THE RIGHT IS PERMITTED.

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; or

3. Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right of way only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

Section 15-504 OVERTAKING A VEHICLE ON THE LEFT.

A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street or roadway until safely clear of the overtaking vehicle.

B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Section 15-505 LIMITATIONS ON OVERTAKING ON THE LEFT; EXCEPTIONS.

A. No vehicle shall be driven to the left side of the center of the street or roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the completion of the overtaking and passing without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every instance the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

B. No vehicle at any time shall be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade, or upon a curve in the street or highway where the driver's view along the street or highway is obstructed; or

2. When approaching within one hundred (100) feet of any bridge, viaduct or tunnel or when approaching within fifty (50) feet of or traversing any intersection or railroad grade crossing.

Section 15-506 PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having a width from not more than one line of traffic in each direction each driver shall give to the other at least one-half ($\frac{1}{2}$) other main-traveled portion of the roadway as nearly as possible.

Section 15-507 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.

A. City personnel, subject to any directions given by the City Commission by motion or resolution, may designate any road, street,

alley, or highway, or any separate roadway under their jurisdiction for one-way traffic and shall cause appropriate signs giving notice thereof, to be erected.

B. Whenever the city designates any street or alley or part thereof as a one-way street or alley, city personnel shall have placed and maintained signs giving notice thereof; and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

C. Upon those streets and parts of streets and in those alleys and parts of alleys so designated as one-way streets and alleys, vehicular traffic shall move only in the direction indicated when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

D. Upon roadways designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.

E. A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

State Law Reference: Similar provisions, 47 O.S. Section 11-308.

Section 15-508 FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-310.

Section 15-509 NO PASSING ZONES.

A. The State Department of Transportation, as regards state and federal highways, and the City Manager as regards all other streets, are hereby authorized to determine those portions of any highways where overtaking and passing to the left would be especially hazardous, and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this Section, no driver shall at

any time drive to the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

Section 15-510 DRIVING THROUGH FUNERAL OR OTHER PROCESSION PROHIBITED; EXCEPTIONS.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

State Law Reference: Local powers to regulate processions, 47 O.S. Section 15-102.

Section 15-511 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

Section 15-512 FUNERAL PROCESSIONS TO BE IDENTIFIED.

A funeral composed of a procession of vehicles shall be identified by headlights or as may be determined and designated by the police department.

Section 15-513 OVERTAKING AND PASSING IN SCHOOL ZONES.

A. No driver of a vehicle shall pass any other vehicle which is in motion and being driven in the same direction in any school zone between the hours posted on all days when schools are in session.

B. Wherever a school zone is located on a multiple lane street which is divided into three (3) or more clearly marked lanes for traffic or where the right half of the roadway has been divided into two (2) or more lanes, or on one-way streets, vehicles shall be allowed to pass slower moving vehicles being driven in the same direction where passing does not involve a change of lane movement.

Section 15-514 OVERTAKING AND PASSING SCHOOL BUS.

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, shall stop the vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is

reasonable and with due caution for the safety of such school children and other occupants.

B. The driver of any vehicle when passing a school bus shall use caution for the safety of school children and other occupants of the school bus.

C. Occupants of the school bus shall have the right of way when crossing the roadway immediately upon leaving the school bus.

State Law Reference: Similar provisions, 47 O.S. Section 11-705.

Section 15-515 SCHOOL BUS REQUIREMENTS; LIGHTS; SIGNS; PAINTING.

A. The provisions of Section 15-514 of this code shall be applicable only if the school bus is painted yellow and bears upon the front and rear thereon a plainly visible sign containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height which can be removed or covered when the vehicle is not in use as a school bus.

B. The school bus shall be equipped with four (4) red alternately flashing warning signal lights, two (2) of which shall be located high on the front and two (2) high on the rear of the vehicle. The lights shall be a minimum of four (4) inches in diameter and shall be widely separated.

State Law Reference: Similar provisions, 74 O.S. Section 11-705.

Section 15-516 DRIVING OF VEHICLES ON SIDEWALK PROHIBITED; EXCEPTION.

No person shall drive any vehicle within or upon any sidewalk area except at a permanent or temporary driveway.

Section 15-517 LIMITATIONS ON BACKING VEHICLE.

The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with any other traffic. No vehicle shall be backed into an intersection.

Section 15-518 LIMITATIONS ON USE OF MOTORCYCLES, BICYCLES AND MOTOR SCOOTERS.

A. No driver of a two-wheel or three-wheel motor vehicle or bicycle shall carry any other person upon or within such vehicle on any street or highway, except as provided in this Section:

1. If any two-wheel or three-wheel motor vehicle with a wheel diameter of twelve (12) inches or greater or any bicycle shall have either a double seating device with double foot rests or a side car attachment providing a separate seat space within such sidecar attachment for each person riding therein so that such person shall be seated entirely within the body of the side car, then it shall be permissible for an operator who has attained the age of sixteen (16) or older to carry a passenger; and

2. A demonstration ride by a licensed dealer or his employee is permissible.

B. No motorcycle or motor scooter shall be ridden upon any sidewalk of the city.

C. No rider of a motorcycle, bicycle, or motor scooter shall hold onto any moving vehicle for the purpose of being propelled.

D. A person operating a motor scooter, motorcycle, motor-driven cycle, or motor bicycle, shall ride only on the permanent and regular seat attached thereto.

E. No driver of a motorcycle or motor scooter shall pass other vehicles in between lanes of traffic traveling in the same direction. Authorized emergency vehicles are excepted from the provisions of this subsection.

F. No person under the age of sixteen (16) shall operate any motorcycle, motor bicycle, or motor scooter within the city between and during the hours of 10:00 P.M. of one day and 4:00 A.M. of the next day.

Section 15-519 REQUIRED MOTORCYCLE EQUIPMENT, HEADGEAR.

A. In addition to all other requirements motorcycles and motor scooters shall be equipped with the following:

1. Handle bars which do not exceed twelve (12) inches in height, measured from the crown or point of attachment;

2. Two (2) mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle;

3. Brakes adequate to control the movement of the vehicle, to stop and hold the vehicle, including two (2) separate means of applying

the brakes. One means for applying the brakes shall be to effectively apply brakes to the front wheel, and one means shall be to effectively apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance not less than one hundred (100) feet to the rear in normal sunlight, and which shall be activated upon application of the service brake;

4. A properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle shall be provided;

5. A fender over each wheel. All fenders shall be of the type provided by the manufacturer;

6. One lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the vehicle is proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear. The lights required by this paragraph shall be burning whenever the vehicle is in motion during the period from one-half ($\frac{1}{2}$) hour after sunset to one-half ($\frac{1}{2}$) hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead; and

7. A windshield of sufficient quality, size and thickness to protect the operator from foreign objects. In lieu of the windshield, the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

B. No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this Section unless the person is equipped with and wearing on the head a crash helmet of the type and as not to distort the view of the driver. Such headgear shall comply with the regulations issued by the State Department of Public Safety as provided in Section 40-106G of Title 47 of the Oklahoma Statutes.

C. No person may operate a motorcycle or motor scooter with the exhaust system modified so that motor noise is increased greater than that of the original muffler equipment provided by the manufacturers of the vehicle.

Section 15-520 CLINGING TO VEHICLES PROHIBITED.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any moving vehicle upon a roadway.

Section 15-521 ENTERING AND LEAVING CONTROLLED ACCESS HIGHWAYS.

No person shall drive a vehicle onto or from any controlled-access highway except at entrances and exits established by public authority.

Section 15-522 RECKLESS DRIVING.

Any person who drives any vehicle in a wanton manner without regard for the safety of persons or property is guilty of reckless driving, and upon conviction thereof, shall be fined as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, 47 O.S. Section 11-901.

Section 15-522.1 RESERVED

Section 15-523 CARELESS OR NEGLIGENT DRIVING, STOPPING, OR PARKING.

It is unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle:

- A. In a careless manner;
- B. In a negligent manner;
- C. In such a manner as to endanger life, limb, person, or property; or
- D. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets.

Section 15-524 FULL TIME AND ATTENTION REQUIRED.

The operator of every motor vehicle while driving upon the streets and highways of the city shall devote full time and attention to such driving.

Section 15-525 REQUIREMENT OF ANY PERSON DRIVING A VEHICLE ON A PUBLIC WAY TO OPERATE SAME IN A CAREFUL AND PRUDENT MANNER.

Any person driving a vehicle on a public road or way shall drive the same in a careful and prudent manner and at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the public way and any other conditions then existing.

Section 15-526 SPEED CONTEST PROHIBITED.

A. No person shall engage in, aid or abet any motor vehicle speed contest or exhibition of speed on any street or highway.

B. No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest upon any street or highway, in any manner obstruct or place any barricade or obstruction upon any street or highway.

C. When three (3) or more persons assemble to witness or participate in any unlawful speed contest such assembly is unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense.

Section 15-527 DRIVING THROUGH SAFETY ZONE.

No vehicle shall at any time be driven through or within a safety zone or island.

Section 15-528 STARTING PARKED VEHICLE.

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Section 15-529 OPENING AND CLOSING VEHICLE DOORS.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so; nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

State Law Reference: Similar provision, 47 O.S. Section 11-1105.

Section 15-530 OBSTRUCTIONS TO DRIVER'S VIEW OR DRIVING MECHANISM.

A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

Section 15-531 BOARDING OR ALIGHTING FROM VEHICLES.

No person shall board or alight from any vehicle while such vehicle is in motion.

Section 15-532 UNLAWFUL RIDING.

No person shall ride on any such vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

Section 15-533 PRIVATE SERVICE DRIVES.

No vehicles or animal shall be driven through any private service driveway or private service area except for the purpose of obtaining service or merchandise.

Section 15-534 TRUCK ROUTES.

The City Commission may prescribe routes through the city for the use of trucks in general, trucks or particular kinds or other vehicles which are not ordinary private passenger vehicles, passing through the city. Appropriate and adequate signs shall be placed along such routes so that drivers of such vehicles may follow the routes. When such signs are so erected and in place, the driver of a truck or other vehicle for which a route has been prescribed, as provided above, while passing through the city, shall keep on such route and shall not deviate therefrom except in case of an emergency. Drivers of such vehicles shall follow such routes so far as practicable also when driving within the city and not merely through the city.

Section 15-535 LOADS ON VEHICLES.

A. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

B. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Any vehicle loaded with sand, cinders, or other loose material susceptible to blowing or

escaping by reason of wind shall have the load covered or dampened so as to prevent the blowing or escaping of the load from the vehicle.

Section 15-536 VEHICLE APPROACHING OR ENTERING INTERSECTION.

A. When two (2) vehicles enter or approach an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right as otherwise stated in this chapter; however, the driver of vehicle on a street which is not a state or federal highway approaching an intersection with a state or federal highway shall stop and yield the right-of-way to a vehicle which has entered the intersection or which is so close thereto as to constitute an immediate hazard.

B. The right-of-way rule declared in Subsection A of this Section is modified at through highways as otherwise stated in this chapter.

State Law Reference: Right of way at intersections, 47 O.S. Section 11-401.

Section 15-537 VEHICLE TURNING LEFT AT INTERSECTIONS.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. After so yielding and having given signal when and as required by this code, the driver may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

State Law Reference: Similar provisions, 47 O.S. Section 11-402.

Section 15-538 VEHICLE APPROACHING A "YIELD RIGHT-OF-WAY" SIGN.

The driver of a vehicle approaching a "Yield Right-of Way" sign shall slow to a reasonable speed for existing conditions of traffic and visibility, yielding the right-of-way to all vehicles on the intersecting street or highway which have entered the intersection or which are so close as to constitute an immediate hazard.

State Law Reference: Similar provisions, 47 O.S. Section 11-403.

Section 15-539 VEHICLE ENTERING THROUGH HIGHWAY.

Except when directed to proceed by a police officer or a traffic control signal, every driver of a vehicle shall stop as required by this code at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway, or which are approaching so closely on the through highway as to constitute an immediate hazard.

Section 15-540 VEHICLES FACING STOP, SLOW, WARNING OR CAUTION SIGNAL.

If the two (2) or more vehicles face stop, slow, warning or caution signs or signals at an intersection and are approaching as to enter the intersection at the same time, the following rules shall apply: If each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. If one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not entered the intersection.

Section 15-541 THROUGH STREETS.

A. City personnel, subject to such direction as the City Commission may give, may designate any street or part of a street a through street.

B. Whenever the city designates and describes a through street, the stop sign, or yield sign if deemed more appropriate, shall be placed and maintained on every street intersecting a through street, or intersecting that portion thereof, unless traffic at such intersection is controlled at all times by traffic control signals.

C. At the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the city if deemed desirable.

Section 15-542 INTERSECTIONS WHERE STOP OR YIELD REQUIRED.

The City Manager, subject to any directions given by the City Commission by motion or resolution, is hereby authorized to determine and designate intersections upon other than through streets where particular hazards exist and to determine whether:

1. Vehicles shall stop at one or more entrances to any such stop intersection, in which event he shall cause to be erected a stop sign at every such place a stop is required; or

2. Vehicles shall yield the right-of-way to vehicles on a different street as provided in this part in which event he shall cause to be erected a yield sign at every place where yield is required.

Section 15-543 STOP OR YIELD SIGN CONSTRUCTION AND PLACEMENT.

Every stop or yield sign erected pursuant to this chapter shall bear the word "Stop" or "Yield" in letters not less than eight (8) inches in height for a stop sign and not less than seven (7) inches in height for a yield sign. Every stop or yield sign shall at night be rendered luminous by steady or flashing internal illumination, by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop or yield sign shall be located as close as practicable to the nearest line of the crosswalks on the near side of the intersection or if there is not crosswalk, then the sign shall be located at the nearest line of the intersecting roadway.

Section 15-544 VEHICLE ENTERING STOP INTERSECTION.

Except when directed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop before entering the crosswalk on the near side of the intersection. In the event there is no crosswalk, the driver shall stop at a clearly marked stop line before entering the intersection. If there is not marked stop line, then the driver shall stop at the point nearest the intersecting road where the driver has a view of approaching traffic on an intersecting roadway before entering the intersection. A driver after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or road, or which is approaching so close as to constitute immediate hazard; but the driver having so yielded may then proceed the driver of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

Section 15-545 VEHICLE ENTERING YIELD INTERSECTION.

The driver of a vehicle approaching a yield sign shall, in observance to such sign, slow down to a speed reasonable for the existing condition or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another road so closely as to constitute an immediate hazard. The driver having so yielded may then proceed and the drivers of all other

vehicles approaching the intersection shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian at a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. The provisions of this Section shall not release the drivers of other vehicles approaching the intersection at such a distance as not to constitute immediate hazard from the duty to drive with due care to avoid a collision. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection before entering the intersection; if there is no crosswalk, the driver shall stop at a clearly marked stop line, or if there is no stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

Section 15-546 VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY.

The driver of a vehicle about to enter, leave or cross a highway from or into a private road or driveway shall yield the right-of-way to all vehicles approaching on the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-404.

Section 15-547 VEHICLES ENTERING TRAFFIC FROM PARKING.

Any vehicle attempting to re-enter traffic while parked at the curb shall yield the right-of-way to oncoming traffic in the street approaching from the rear. The parked vehicle shall proceed into the line of traffic only after the driver has given the appropriate signal which indicates his intention of turning from the curb and into the line of traffic. The vehicle shall in no event enter the line of traffic until the driver has ascertained that no hazard exists.

Section 15-548 EMERGING FROM THE ALLEY, DRIVEWAY, OR BUILDING.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alley way or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

State Law Reference: Similar provisions, 47 O.S. Section 11-704.

Section 15-549 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked cross walk unless there is sufficient space on the other side of the intersection

or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-550 OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Section 15-551 CERTAIN VEHICLES TO STOP AT ALL RAILROAD GRADE CROSSINGS.

A. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

B. No stop need be made at any such crossing where a police officer or traffic control signal directs traffic to proceed.

Section 15-552 SEAT BELTS AND CHILD PASSENGER RESTRAINTS REQUIRED.

A. Every operator and front seat passenger of a passenger car operated in this city shall wear a properly adjusted and fastened safety belt system, required to be installed in the motor vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208. For the purposes of this Section, "passenger car" shall mean "automobile" as defined in Section 22.1 of Title 47 of the Oklahoma Statutes, except that "passenger car" shall not include trucks, pick-up trucks, truck-tractors, recreational vehicles, vans, motorcycles or motorized bicycles.

B. Subsection A shall not apply to an operator or passenger of a passenger car in which the operator or passenger possesses a written verification from a physician licensed in this state that he is unable to wear a safety belt system for medical reasons. The issuance of such verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a safety seat belt system. Subsection A shall not apply to an operator of a motor vehicle who is a route carrier of the U.S. Postal Service.

C. Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this city shall provide for the protection of the child by properly using a child passenger restraint system or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of this subsection, "child passenger restraint system: means an infant or child passenger set by the United States Department of Transportation. Children four (4) or five (5) years of age shall be protected by the use of a child passenger restraint system or a seat belt. The provisions of this subsection shall not apply to:

1. A nonresident driver transporting a child in this state;
 2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;
 3. The driver of an ambulance or emergency vehicle;
 4. A driver of a vehicle if all of the seat belts are in use;
- and

5. The transportation of children who for medical reasons are unable to be placed in such devices.

A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provision of this Section and to give an oral warning to the driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle. A person who violates the provisions of this subsection shall not be subject to any criminal penalty. A violation of the provisions of this subsection shall not be admissible as evidence in any civil action or proceeding for the damages. If any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this subsection shall not be used in aggravation or mitigation of damages.

D. No law enforcement officer shall make routine stops of motorists for the purpose of enforcing subsection A of this Section. Any person convicted of violating subsection A of this Section shall be punished by a maximum fine as set by state law or by the city, whichever is greater, and court costs.

ARTICLE 6

TRAFFIC CONTROL DEVICES

Section 15-601 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.

City personnel, subject to any directions given by the City Commission by motion or resolution, shall have placed and maintained traffic control signs, signals, and devices when and as required under the traffic ordinances of this city to make effective the provisions of such ordinances, and may have placed and maintained such additional traffic control signs, signals, and devices as he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law or to guide or warn traffic.

Cross-Reference: For state law relating to traffic control devices, see 47 O.S. Section 11-201 et seq.

Section 15-602 TRAFFIC CONTROL DEVICES; UNIFORM REQUIREMENTS.

A. All traffic control signs, signals, and devices shall conform to the manual of Uniform Traffic Control Devices approved by the State Department of Public Safety.

B. All signs, signals, and devices required hereunder for a particular purpose shall so far as practicable be uniform as to type and relative location throughout the city. All traffic control devices erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

Section 15-603 OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police office, subject to the exemptions granted the driver of an authorized emergency vehicle in this part.

State Law Reference: Drivers to obey traffic devices, 47 O.S. Section 11-201.

Section 15-604 WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently eligible to be seen by an ordinarily observant person. If a particular Section does not state that official traffic control devices are required, such Section shall be effective even though no devices are erected or in place.

Section 15-605 TRAFFIC CONTROL SIGNAL LEGEND.

The display of signal lights, arrows and words shall be deemed to have the following meanings and requires the appropriate response on the part of vehicular traffic and pedestrians:

1. Green alone, "Go":
 - a. Vehicular traffic facing the signal, except when prohibited, may proceed straight through or turn right or left unless an official sign at such place prohibits such turn, but any vehicle and any pedestrian lawfully within the intersection or adjacent crosswalk at the time the signal displays green shall have the right-of-way over such vehicular traffic; and
 - b. Pedestrian traffic, facing a green signal may proceed across the roadway within any marked or unmarked crosswalk unless a "walk" signal indicator is operating;
2. Steady yellow or amber alone, "caution":

- a. The showing of such signal color following green shall constitute a warning that the "red" or "stop" signal will be exhibited immediately thereafter; and
 - b. Vehicles facing the signal shall stop before entering the near side crosswalk or at the limit line, if it is marked, unless the vehicle is so near the limit line when the "caution" signal first flashes that a stop cannot be made in safety, in which event vehicle may proceed cautiously through the intersection and clear the same before the "red" signal flashes;
3. Red alone, "stop":
- a. Vehicular traffic facing the signal stop before entering the crosswalk and shall remain standing until green or "go" is shown alone. Except where official signs are erected prohibiting such turns, vehicles in the right traffic lane, after making a full stop as required, may enter the intersection cautiously and make a right turn, but such vehicles shall yield the right-of-way to any pedestrians or other traffic in the intersection and the turn shall be made so as not to interfere in any way with traffic proceeding on a green signal indication on the cross street; and
 - b. Pedestrians facing the signal shall not enter or cross the roadway when such movement interferes with traffic proceeding on a green signal indication on the cross street, or when the movement cannot be made in safety. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized to do so, by a pedestrian "walk" signal;
4. Steady red with green arrow:
- a. Vehicular traffic facing such signal when in the proper traffic lane may cautiously enter the intersection only to make the movement indicated by the arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection. If the movement indicated by the green arrow is a left turn, the left turn shall be made only on the red with green arrow signal; and
 - b. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized so to do by a pedestrian "walk" signal; and

5. Green arrows alone. Whenever vehicular traffic movements are controlled by green arrows alone and not displayed with any other signal indication, vehicles facing such signals may make the movements indicated by the green arrows and the movements shall be made only when the green arrows are displayed.

State Law Reference: Similar provisions, 47 O.S. Section 11-202.

Section 15-606 PEDESTRIANS; SIGNAL INDICATORS; REGULATIONS:

Special pedestrian control signals exhibiting the words "walk," "wait" or "don't walk" shall regulate pedestrian movement as follows:

1. "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles; and

2. "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "walk" signal shall proceed to a sidewalk or safety zone while the "wait" signal is showing.

Section 15-607 FLASHING SIGNALS.

A. Whenever a flashing red or yellow signal is illuminated, it shall require obedience by vehicular traffic as follows:

1. "Flashing Red." When a red light is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and

2. "Flashing Yellow." When a yellow light is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection, or pass such signal only with caution.

B. This Section shall not apply at railroad crossings.

State Law Reference: Similar provisions, 47 O.S. Section 11-204.

Section 15-608 PEDESTRIAN-ACTIVATED SCHOOL CROSSING SIGNALS.

Whenever a pedestrian-activated school crossing signal is provided, it requires obedience by vehicular traffic and pedestrians as follows:

1. "Flashing Yellow":

- a. When a yellow lens is illuminated with rapid intermittent flashes, drivers or operators of vehicles may proceed through the intersection or pass such signal only with caution; and
- b. Pedestrians shall not proceed in conflict with traffic, but may activate the signal control switch, and shall wait until steady red alone is shown before entering the roadway or intersection controlled by the signal;
2. "Steady yellow alone":
 - a. Vehicular traffic facing the signal is thereby warned that the red of "stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection or pass the signal when the red or "stop" signal is exhibited; and
 - b. No pedestrian shall enter the roadway or intersection on which the signal controls vehicular traffic until steady red alone is shown;
3. "Steady red":
 - a. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection, and shall remain standing until flashing yellow is shown alone;
 - b. Pedestrians may proceed across the road controlled by the signal, and shall be given the right-of-way by the drivers of all vehicles; and
4. "Steady red and steady yellow combined":
 - a. Vehicular traffic facing the signal is thereby warned that the flashing yellow signal will be exhibited immediately thereafter, and that such vehicular traffic shall remain standing until the flashing yellow is shown alone; and
 - b. Pedestrians are thereby warned that the flashing yellow signal is about to be shown and shall not enter the signal-controlled roadway or intersection, or in a direction which conflicts with the movement of vehicular traffic; but any pedestrian who has partially completed his crossing shall proceed to the nearest sidewalk or safety island and shall be given the right-of-way by the drivers of all vehicles.

State Law Reference: Similar provisions, 47 O.S. Section 11-203.
Section 15-609 UNAUTHORIZED TRAFFIC CONTROL DEVICES PROHIBITED.

A. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

B. No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign, signal, or device bearing thereon any commercial advertising.

C. This Section shall not prohibit the erection upon private property adjacent to highways of signs giving useful directional information which are of a type that cannot be mistaken for official signs.

D. Every prohibited sign, signal, marking or device may be removed without notice.

State Law Reference: Similar provisions, 47 O.S. Section 11-206.
Section 15-610 DEFAACEMENT OF TRAFFIC CONTROL DEVICES.

A. No person shall without lawful authority attempt to or in fact alter, destroy, deface, molest, interfere, tamper, injury, knock down, remove or have in his possession any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof.

B. This chapter shall not apply to any of the following persons when acting within the scope and duty of their employment:

1. Any officer, agent, independent contractor, employee, servant or trustee of any governmental agency; or

2. Any officer, agent, independent contractor, employee, servant or trustee of any contractor, public utility or railroad company.

State Law Reference: Similar provisions, 47 O.S. Section 11-207.
Section 15-611 PLAY STREETS, AUTHORITY TO ESTABLISH.

City personnel, subject to any directions given by the City Commission, shall have authority to declare any street or part thereof

a play street and to have placed appropriate signs or devices in the roadway indicating and helping protect the same.

Section 15-612 PLAY STREETS, RESTRICTION ON USE.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area; and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 15-613 DESIGNATION OF CROSSWALKS AND SAFETY ZONES.

Authorized city personnel, subject to any directions given by the City Commission, may:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway and crosswalks at intersections, where in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as deemed necessary; and

2. Establish safety zones or islands of such kind and character and at such places as deemed necessary for the protection of pedestrians.

Section 15-614 TRAFFIC LANES.

A. City personnel, subject to any directions given by the City Commission, may be authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or otherwise authorized by ordinance.

State Law Reference: Similar provisions, 47 O.S. Section 11-309.

ARTICLE 7

STOPPING, STANDING AND PARKING GENERALLY

Section 15-701 ILLEGAL PARKING DECLARED PUBLIC NUISANCE.

Any vehicle in violation of any regulation contained in this chapter governing, limiting or prohibiting the parking or standing of a vehicle on any street or public thoroughfare is hereby declared to constitute a public nuisance, and each separate traffic citation issued as authorized herein for such violation shall constitute a separate notice thereof to the owner or operator of such vehicle.

Section 15-702 APPLICATION OF STANDING OR PARKING REGULATIONS.

The provisions of this chapter shall not be applicable when it is necessary for a vehicle to stop to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Section 15-703 PARKING TIME LIMITS MAY BE ESTABLISHED, SIGNS.

City personnel, subject to directions given by the City Commission by motion or resolution, may establish parking time limits or prohibit parking on designated streets or parts of streets and have appropriate signs placed on the streets. When the signs are in place, it is unlawful for any person to park a vehicle in violation of the sign. No such time limits shall be effective unless a sign is erected and in place at the time of the alleged violation.

Section 15-704 PARKING MORE THAN FORTY-EIGHT (48) HOURS, DISABLED VEHICLES.

No person shall park any vehicle or trailer on any street for a period of time longer than forty-eight (48) hours. This Section shall not affect parking limits established for shorter periods.

Section 15-705 BRAKES; MOTOR NOT TO BE LEFT RUNNING.

Adequate brakes shall be set on all parked vehicles. No driver of a motor vehicle shall leave the vehicle with the motor running while parked.

Section 15-706 SIGNS OR MARKINGS INDICATING ANGLE PARKING.

The City Manager, subject to any direction by the City Commission by motion or resolution, shall determine upon what streets and parts

of streets angle parking shall be permitted and shall have such streets marked or signed.

Section 15-707 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.

On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Section 15-708 PARKING IN SPACES MARKED OFF.

In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a line delimiting a space.

Section 15-709 SPECIAL PERMITS FOR PARKING, LOADING OR UNLOADING, INCLUDING ON HIGHWAY 64/11/GRAND WITH SPECIAL PERMIT REQUIRED.

- A. The City Manager is authorized to issue special permits to permit the backing of a motor vehicle to the curb for the purpose of loading or unloading merchandise or materials or for the parking of a non-motorized vehicle or trailer for such other purposes as may be authorized by this Chapter and approved by the City Manager, subject to the terms and conditions of such permit. It is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.
- B. No person shall park, store or idle, or permit the parking, storing or idling, of any non-motor vehicle in any public parking space, lot or area or within any public right-of-way along Highway 64/11/Grand Avenue within the City, unless a special permit is obtained from the City Manager. It is unlawful for any permittee or other person to violate any of this section and/or terms or conditions of any such special permit.
- C. The City Manager is hereby authorized to provide for special permits for loading and unloading at the curb or for a non-motor vehicle or trailer or for other purposes as may be authorized by this section and providing for a permit fee of up to \$25.00 per day, and primarily based on duration of use. Such permits may be issued either to the owner or lessee of real property or to the owner of the non-motor vehicle or trailer and shall grant to such person the privilege as therein stated and authorized herein. The City Manager may revoke such permits at any time.

Section 15-710 HAZARDOUS OR CONGESTED PLACES; STOPPING, STANDING, PARKING.

A. City personnel are hereby authorized to determine and regulate by proper signs the stopping, standing, or parking of vehicles when such stopping, standing or parking would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places, as authorized in Subsection A of this Section, no person shall violate such signs.

Section 15-711 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

A. No person shall stop, stand, or park a vehicle, except in emergencies or when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device in any of the following places:

1. On a sidewalk, sidewalk area, or between the sidewalk and the street;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within fifteen (15) feet of a fire hydrant except in a parking space officially marked;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length has been indicated by signs or markings;
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance of any fire station within seventy-five (75) feet of the entrance when properly signposted;

11. Alongside or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;

12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

14. At any place where official signs prohibit stopping or parking.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or any unlawful distance away from a curb.

State Law Reference: Similar provisions, 47 O.S. Section 11-1003.

Section 15-712 BLOCKING OF INTERSECTION OR CROSSWALK PROHIBITED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-713 STANDING OR PARKING ON ONE-WAY ROADWAY.

A. If a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking.

B. The City Commission may determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

Section 15-714 STANDING OR PARKING ON LEFT SIDE OF ONE-WAY STREETS.

City personnel may have signs erected upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles. When the signs are in place, no person shall stand or park a vehicle in violation of any such sign.

Section 15-715 PARKING ADJACENT TO SCHOOLS.

A. City personnel may have signs erected indicting no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. No person shall park a vehicle in violation of any such sign.

Section 15-716 PARKING PROHIBITED AT INTERSECTIONS.

The parking of vehicles at the curb where streets intersect shall be prohibited fifteen (15) feet in advance of the crosswalk on the near side of such intersection.

Section 15-717 PARKING IN ALLEYS, BLOCKING DRIVEWAYS.

No person shall park a vehicle within a street or alley in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within a street or alley in such position as to block a driveway entrance to any abutting property.

Section 15-718 ENTRY ON PRIVATE PROPERTY; TRESPASS; EVIDENCE; BURDEN OF PROOF.

A. No person shall make an entry with any vehicle upon real property owned or legally occupied by another without the owner's or occupant's consent except where such private property is provided as public parking and the general use of the property is not restricted by signs or proper markings.

B. Where entry is made upon real property owned or legally occupied by another without the owner's or occupant's consent, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises, the burden is put upon the person making the entry to show that permission for such entry was given.

Section 15-719 PARKING ON MAIN TRAVELED PORTION OR ROADWAY.

A. Upon any street, no person shall stop, park, or leave standing any vehicle, whether attended or unattended upon the paved or main traveled part of the street when it is practical to stop, park, or leave the vehicle off such parts of the street, except that delivery vehicles, either loading or unloading, may park in the center of street, while in the process of loading or unloading and making delivery to or pick up at any local business establishment.

B. This Section shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

Section 15-720 DOUBLE PARKING PROHIBITED.

A. No vehicle shall be double parked on any street within the city limits, except in compliance with the directions of a police officer, or traffic control device, or except when necessary to avoid conflict with another vehicle.

B. Delivery vehicles, either loading or unloading, may double park in the right-hand lane while in the process of loading or

unloading and making delivery to local business establishments; provided that the driver of the delivery vehicle shall keep a lookout for cars and vehicles needing or attempting to move away from the curb and shall move his delivery vehicle as soon as possible to permit the parked vehicles to be moved and further providing that the double parking shall be permitted only so long as both traffic lanes are not blocked.

Section 15-721 TRUCK PARKING PROHIBITED; TRUCKS TRANSPORTING HAZARDOUS MATERIALS PROHIBITED.

A. It is unlawful for any person to park a truck of over one-ton capacity, or a trailer over twenty (20) feet in length, for more than three (3) consecutive hours on any street or alley in the city.

B. It is unlawful to park, store or otherwise let stand a truck or other vehicle which is used for the purpose of transporting or delivering flammable and combustible liquids as defined by the Fire Prevention Code and trucks or other vehicles which are used for the transportation and delivery of liquefied petroleum gases in any area within the city. However, the trucks and vehicles restricted in this Section may be temporarily parked at locations otherwise zoned for the purpose of loading and unloading flammable and combustible liquids and liquified petroleum gases for a period not to exceed one and one-half (1 ½) hours during any twenty-four (24) hour period.

Section 15-722 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park a vehicle upon any roadway for the purpose of:

1. Displaying the vehicle for sale;
2. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things; or
3. Washing, cleaning, or repairing the vehicle, except for repairs necessitated for emergency.

Section 15-723 METHOD OF PARKING, STANDING OR PARKING CLOSE TO CURB.

Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs, shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within eighteen (18) inches of the right-hand curb. Any vehicle stopped or parked upon the left-hand side of a one-way street where there are adjacent curbs shall be parked or stopped with the left-hand wheels parallel to and within eighteen (18) inches of the left-hand curb.

State Law Reference: Parking rules, 47 O.S. Section 11-1004.

Section 15-724 NEGLIGENT PARKING.

No person shall park, cause to be parked, stop or leave unattended any vehicle as follows:

1. In a careless or negligent manner;
2. In such a manner as to endanger life, limb, person, or property; or
3. In such manner as to endanger or interfere with the lawful traffic or use of the streets.

Section 15-725 RIGHT-OF-WAY TO PARALLEL PARKING SPACE.

A. The driver of any vehicle intending to occupy a parallel parking space where a backing movement is necessary and which is being vacated by another vehicle shall stop his vehicle to the rear of the parking space until the vacating vehicle has cleared and entered normal traffic. He then shall be deemed to have the right-of-way to such parking space over any other vehicle attempting to park therein.

B. The first of two (2) or more vehicles to reach the rear boundary of an unoccupied parallel parking space where a backing movement is necessary to occupy, shall be deemed to have the right-of-way to such parking space.

Section 15-726 HANDICAPPED PARKING, ENFORCEMENT OF PUBLIC OR PRIVATE PARKING.

A. It is unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such person has a physical disability insignia as under the provisions of Section 15-112 of Title 47 of the Oklahoma Statutes, and such insignias are displayed as provided in Section 15-112 of Title 47 of the Oklahoma Statutes or regulations adopted pursuant thereto.

B. Any person who shall violate any of the provisions of this Section shall be guilty of an offense and upon conviction thereof shall be punishable by a fine as provided in Section 1-108 of this code.

State Law Reference: Handicapped insignia, application and display on vehicles, 47 O.S. Section 15-112.

ARTICLE 8

LOADING

Section 15-801 DEFINITIONS.

As used in this chapter:

1. "Freight loading zones" means all curb loading zones authorized and regularly used exclusively for the loading and unloading of merchandise for storage, trade, shipment or re-sale;
2. "Commercial vehicle" means:
 - A. A truck designated for delivery purposes with the name of the owner or his business painted on both sides of the vehicle, regularly used during normal business hours for the delivery and handling of merchandise or freight and which bears a regular state commercial license tag;
 - B. A passenger vehicle used regularly and actually engaged during normal business hours in the delivery and handling of merchandise or freight, and which bears a special numbered license plate issued by the city at the rear of the vehicle attached to the state license plate together with an identically numbered decal, issued vehicle; and
3. "Passenger loading zone" means all loading zones authorized and used regularly and exclusively for the loading and unloading of passengers except bus stops, taxicab stands, and stands for other passenger common carrier vehicles.

Section 15-802 CURB LOADING ZONES, DESIGNATION.

- A. The City Manager, subject to any directions given by the City Commission by motion or resolution, may determine the location of passenger and freight curb loading zones and shall have placed and maintained appropriate signs indicating the zones and stating the hours during which the provisions of this Section are applicable.
- B. No person shall stand or park a vehicle in violation of signs erected in accordance with this Section.
- C. If any loading zone is established on request of any person, the signs shall not be placed until the applicant pays to the city an amount of money estimated by the City Commission to be adequate to reimburse the city for all costs of establishing and signing the same.

Section 15-803 LOADING ZONES TO BE USED ONLY FOR DESIGNATED PURPOSE.

No curb loading zone authorized and established as a passenger loading zone shall be used as a freight loading zone, and no freight loading zone shall be used as a passenger loading zone except as may be specifically provided by law.

Section 15-804 STOPPING, STANDING OR PARKING IN PASSENGER CURB LOADING ZONE.

No person shall stop, stand, or park a vehicle in a passenger curb loading zone for any purpose or period of time other than for the expeditious loading or unloading of passengers, during the hours when the regulations applicable to such curb loading zones are effective, and then only for a period of not to exceed three (3) minutes.

Section 15-805 STOPPING, STANDING OR PARKING IN COMMERCIAL CURB LOADING ZONE.

A. No person shall stop, stand, or park a vehicle in a commercial curb loading zone for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials during hours when the provisions applicable to such zones are in effect. In no case shall the driver stop for loading and unloading of materials exceed thirty (30) minutes. Vehicles using any commercial loading zone shall be subject to the licensing requirements and regulations provided by this chapter.

B. The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any commercial vehicle which is waiting to enter the zone.

Section 15-806 DESIGNATION OF PUBLIC CARRIER STOPS AND STANDS.

The City Manager may establish loading zones for common carriers, including but not limited to bus stops, bus stands, taxicab stands and stands or other passenger common carrier motor vehicles, on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such loading zone shall be designated by appropriate signs.

Section 15-807 USE OF BUS AND TAXICAB STANDS RESTRICTED.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and the appropriate signs

are in place. The driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter the zone.

Section 15-808 STOPPING, STANDING AND PARKING OF BUSES AND TAXIS.

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

B. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage except in a bus stop, stand or loading zone designated as provided herein, except in case of an emergency.

C. The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

ARTICLE 9

TURNING MOVEMENTS

Section 15-901 TURNING MARKERS OR INDICATORS.

A. The City Manager, subject to any directions given by the City Commission by motion or resolution, is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The course to be traveled, as so indicated, may conform to or be other than as prescribed by law.

B. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by

vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 15-902 DESIGNATION OF RESTRICTED TURNS.

The City Manager is hereby authorized to determine those street intersections at which drivers of vehicles shall not make right, left or U-turns, and shall have proper signs placed at the intersections. The making of the turns may be prohibited between certain hours of any day and permitted at other hours. Where turns are restricted during certain hours pursuant to this Section, the same shall be plainly indicated on the signs, or they may be removed when turns are permitted.

Section 15-903 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, the driver of a vehicle shall not disobey the directions of any such sign.

Section 15-904 U-TURNS.

A. The driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in the city at the following locations:

1. At intersections controlled by traffic control devices or signals unless such turns are specifically authorized;
2. Where a police officer is directing traffic except at the latter's direction; or
3. At any other location where an official "No U-Turn" sign has been placed and is maintained.

B. Manner of making U-turns. A U-turn may be made only when it can be made in safety and without interfering with other traffic. No person shall make a U-turn except in the following manner;

1. By approaching the intersection as closely as practical to the right curb or edge of the roadway, the driver giving and continuing to give a signal for a left turn until the return is completed, proceeding to make the turn across the intersection;
2. In one continuous movement without stopping or backing the vehicle;

3. By yielding the right-of-way at all time to all vehicles until such turn is completed; and

4. Without constituting a hazard to or interfering with any other vehicle.

Section 15-905 LEFT TURNS ACROSS CENTER LINE PROHIBITED, EXCEPTIONS.

It is unlawful and an offense for any person to turn a vehicle across the center line unless the turn is at an intersection at which left hand turns are permitted or into a private road or driveway.

Section 15-906 POSITION AND METHOD OF TURNING.

The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Right turns. Both the approach for a right turn and the execution of a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, the approach for a left turn shall be made in that portion of the right half of the street nearest the center thereof by passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection; or

3. Left turns, on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. After entering the intersection, the left turn shall be made so as to leave the intersection, as nearby as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon roadway being entered.

State Law Reference: Similar provisions, 47 O.S. Section 11-601.=

Section 15-907 TURNING MOVEMENTS AND REQUIRED SIGNALS.

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section

15-905 of this code or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

B. A signal of intention to turn right or left, slow or stop when required, shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning or stopping.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

State Law Reference: Similar provisions, 47 O.S. Section 11-604.

Section 15-908 MEANS OF GIVING TURN SIGNALS.

A. Any stop or turn signal when required herein shall be given either by means of hand or arm, or by a signal lamp or lamps, or mechanical device of a type approved by the Oklahoma Department of Public Safety, except as provided in Subsection B of this Section.

B. A vehicle shall be equipped with, and the required signal given by, signal lamps or devices when:

1. The body or cab of a vehicle or the load of any vehicle projects twenty-four (24) inches or more to the left of the center of the steering wheel;

2. Under any condition where a hand and arm signal would not be visible both to the front and rear of the vehicle; or

3. The rear limit of the body of a vehicle or the load of any vehicle projects fourteen (14) feet or more beyond the center top of the steering post.

Section 15-909 METHOD OF GIVING HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn - hand and arm extended horizontally;
2. Right turn - hand and arm extended upward; and

3. Stop or decrease speed - hand and arm extended downward with palm to the rear.

ARTICLE 10

PEDESTRIANS

Section 15-1001 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL SIGNALS.

Pedestrians shall be subject to traffic control signals as provided for in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.

State Law Reference: Pedestrian rights and duties, 47 O.S. Section 11-501 to 11-507.

Section 15-1002 PEDESTRIANS' RIGHT-OF-WAY AT CROSSWALKS.

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when:

1. The pedestrian is upon the half of the roadway upon which the vehicle is traveling; or
2. The pedestrian is approaching so closely from the opposite edge of the roadway as to be in danger.

The provisions of this subsection are not applicable under conditions where pedestrians are required to yield pursuant to this chapter.

B. No pedestrian shall suddenly leave a curb or other place of safety or walk or run into the path of the vehicle which is so close that it is impossible for the driver to yield.

C. Whenever any vehicle is stopped at a marked crosswalk, or any unmarked crosswalk, or at an intersection to permit a pedestrian to cross a roadway, the driver of any other vehicle approaching from the rear shall not overtake to pass such stopped vehicle.

Section 15-1003 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.

Pedestrians, when crossing the street at a crosswalk, shall move, whenever practicable, upon the right half of the crosswalk.

Section 15-1004 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.

Section 15-1005 WHEN PEDESTRIANS SHALL YIELD.

A. Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk at any intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

C. The provisions of this Section are not applicable where pedestrian crossings are prohibited.

Section 15-1006 PEDESTRIANS WALKING ALONG ROADWAYS.

A. Where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practical, walk only on the left side of the roadway, or its shoulder, facing traffic which may approach from the opposite direction, and shall yield to approaching vehicles.

Section 15-1007 PEDESTRIANS PROHIBITED FROM SOLICITING RIDES, BUSINESS OR DONATIONS FROM VEHICLE OCCUPANTS.

A. No person shall stand in a roadway for purpose of soliciting a ride, donations, employment or business from the occupant of any vehicle.

B. No person shall:

1. Stand in any street, roadway or park and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or the watching or guarding of any vehicle while parked or about to be parked on a street;

2. Sell or attempt to sell anything to any person in any vehicle;

3. Hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or

4. In any other manner, while standing in the street or roadway, attempt to interfere with the normal flow of traffic for any other similar purpose.

Section 15-1008 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter, every driver shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person on the roadway.

Section 15-1009 CROSSING PROHIBITED.

Between adjacent intersections, at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. Pedestrians shall not cross any divided highway having a median in the center thereof, except in a crosswalk.

Section 15-1010 OBEDIENCE OF PEDESTRIANS TO RAILROAD SIGNALS.

No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

ARTICLE 11

BICYCLES

Section 15-1101 APPLICATION OF BICYCLE REGULATIONS.

The provisions of this Article shall apply whenever a bicycle is operated upon any street or upon any public way; or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this chapter.

State Law Reference: Similar provisions, 47 O.S. Section 11-1201 et. seq.

Section 15-1102 APPLICATION OF TRAFFIC LAWS TO BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this state and the traffic provisions of

this code applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which by their nature are inapplicable to such persons.

Section 15-1103 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

A. Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating no right or left or U-turn is permitted, no person operating a bicycle shall disobey the directions of such sign, except where such person dismounts from the bicycle to make any such turn, in which event, such person shall then obey the regulations applicable to the pedestrians.

Section 15-1104 RIDING ON BICYCLES.

A. No person operating a bicycle shall ride other than astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Section 15-1105 RIDING ON ROADWAYS AND BICYCLE PATHS.

A. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle proceeding in the same direction.

B. Person riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

C. If usable paths for bicycles are provided adjacent to a roadway, bicycle riders shall use such paths and not use the roadway.

Section 15-1106 SPEED OF BICYCLE.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Section 15-1107 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley or driveway shall, upon approaching a sidewalk or sidewalk area extending across the alley or driveway, yield the right-of-way to all pedestrians

approaching on the sidewalk or sidewalk area. Upon entering the roadway, the bicycle operator shall yield the right-of-way to all vehicles approaching on the roadways.

Section 15-1108 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand on the handle bars.

Section 15-1109 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against the building or at the curb in such manner as to afford the least obstruction to pedestrian traffic.

Section 15-1110 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. The City Commission, by motion or resolution, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person; and when such signs are in place, no person shall disobey the same.

C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Section 15-1111 LAMPS AND EQUIPMENT ON BICYCLES.

A. Bicycles in use at night shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear maybe used in addition to the red reflector.

B. A bicycle shall not be equipped with, nor shall any person use, any siren or whistle.

C. Bicycles shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

ARTICLE 12

(RESERVED)

ARTICLE 13

IMPOUNDMENT OF VEHICLES

Section 15-1301 PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS.

The impoundment of vehicles under authority of the provisions of this Article shall be construed as an enforcement procedure for protection of the public peace, safety and welfare, and the safeguarding of property, and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic law violations, protection of the public rights in the use of streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles.

State Law Reference: Grounds for removal of vehicles on highways by state, 47 O.S. Section 955; removal of abandoned vehicles on private property, 47 O.S. Section 954A.

Section 15-1302 PLACE OF IMPOUNDMENT.

Every vehicle that is impounded under the provisions of this Article shall be removed to the nearest garage or place of safekeeping designated by the city and to no other place.

Section 15-1303 DURATION OF IMPOUNDMENT.

A. Except as otherwise provided, any vehicle impounded under the authority of this Article shall be stored and held safely until an order for its release is received from an officer of the traffic violations bureau or other proper police officer.

B. The order of release of an impounded vehicle shall be conditioned upon the payment by the person to whom the release is issued of all impoundment costs and accrued storage charges assessed against the vehicle.

Section 15-1304 POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES.

Members of the police department are hereby authorized within the limits set forth in this chapter to impound vehicles under the circumstances hereinafter enumerated. No impoundment shall be valid

unless made under order of an authorized police officer and in strict adherence with the procedures required in this Article.

Section 15-1305 DISABLED VEHICLES.

A disabled vehicle upon a street or highway may be impounded under the following circumstances:

1. If left unattended and improperly parked on street or highway and constitutes a definite hazard or obstruction to the normal movement of traffic; or

2. If the person in charge of the vehicle is physically incapacitated to such extent as to be unable to provide for its custody or removal and the vehicle is so disabled as to constitute an obstruction to traffic or a hazard.

Section 15-1306 VEHICLES ON BRIDGE.

An unattended vehicle left upon any bridge, viaduct or causeway, where the vehicle constitutes an obstruction to traffic or hazard, may be impounded.

Section 15-1307 ARREST AND DETENTION OF DRIVER OF VEHICLE.

Whenever the driver or person in charge of any vehicle is placed under arrest and taken into custody and detained by police under circumstances which leaves or will leave a vehicle unattended on any street or highway, the vehicle may be impounded, unless the driver or person in charge can provide immediately for the vehicle's custody or removal.

Section 15-1308 VEHICLE CONSTITUTES TRAFFIC HAZARD.

A vehicle left unattended upon any street, alley or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic shall be impounded.

Section 15-1309 ILLEGAL TRESPASS BY VEHICLE.

A. An unattended vehicle found to be in violation of this code may be impounded when the required complaint has been properly made and filed as provided in this Section.

B. If a violation of the provisions of this code occurs, the owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's or legal occupant's property, or if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner.

of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal occupant of the property upon which the vehicle is parked or standing.

C. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe the provisions of this code have been violated, the police department shall cause the vehicle to be impounded from the property and placed in storage.

Section 15-1310 VEHICLES PARKED OVERTIME.

Any unattended vehicle which has been parked for more than one hour in excess of the time allowed for parking in any place shall be impounded, and any vehicle parked in violation of this code, for more than forty-eight (48) hours, shall be impounded.

Section 15-1311 VEHICLES BLOCKING FIRE EXITS OR HYDRANTS.

Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device or exit or blocks ready access to a fire hydrant shall be impounded.

Section 15-1312 VEHICLES PARKED IN INTERSECTION.

Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present, shall be moved out of the intersection and to the nearest available legal parking space at the street curbing.

Section 15-1313 STOLEN VEHICLES; RECOVERY BY POLICE.

A. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time not exceeding one hour, or cannot be determined from the registration papers or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle may be removed to the nearest authorized place impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recovery, and if the owner is unable or unwilling to effect the removal within the time specified the vehicle may be impounded.

Section 15-1314 VEHICLES WITH OUTSTANDING TRAFFIC CITATIONS.

Any vehicle for which two (2) or more citations have been issued, for violation of an ordinance, and have not been presented as required, may be impounded if parked in violation of any provision of this chapter.

ARTICLE 14

PENALTIES

Section 15-1401 OBEDIENCE TO TRAFFIC CODE.

A. It is an offense against the city for any person to do any act forbidden or to fail to perform any act required by this chapter.

B. It is an offense against the city for the parent of any child or for the guardian of any ward to authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

C. It is an offense for any person to authorize or knowingly to permit any vehicle registered in his or her name to be driven or to stand or to be parked in violation of any of the provisions of this chapter.

Section 15-1402 PENALTIES, SPECIFIC AND GENERAL.

Except as otherwise provided in this part, any person violating any of the provisions of this part containing the traffic laws of the city, or who performs any unlawful act as defined in this part, or who fails to perform any act required by this part, shall be guilty of an offense and upon conviction thereof shall be fined or punished as provided in Section 1-108 of this code.

Section 15-1403 PROHIBITION ALL VEHICLES AND BICYCLES FROM BEING OPERATED IN COTTONWOOD CANYON

Except by written permission from the City Manager, vehicles and bicycles shall not be used or operated within Cottonwood Canyon in that part of Cottonwood Canyon which is included within the City limits of the City of Cherokee.

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CHAPTER 16 TRANSPORTATION

ARTICLE 1

RAILROADS

Section 16-101 RAILROADS TO IMPROVE STREETS AND ALLEYS.

When a railway occupies any portion of a street with its tracks running in a general direction of such street, either on or adjacent thereto, the railway company shall improve the space between its tracks and two (2) feet on either side thereof in the same manner that the remainder of the street is to be, or has been, improved, or with such other satisfactory material as the City Commission by motion or resolution may approve. In case any railway company shall occupy an alley with its track or tracks, such company shall improve, gutter, drain, and grade such alley, and shall surface or pave it with the same material which is to be, or has been, used on the alley, or with such other satisfactory material as the City Commission by motion or resolution may approve. When the tracks of any railroad company cross any street that is being or has been paved, the company shall pave as much of the street as is occupied by its track or tracks and two (2) feet on each side, using the same material as is to be, or has been, used on the street, or such other satisfactory material as the City Commission by motion or resolution may approve. When more than one track crosses a street within a distance of one hundred (100) feet, measuring from inside rail to inside rail, the railroad company shall grade, gutter, drain, and curb the street area between its tracks, and surface or pave it with the same material which the city is to use or has used, on the street. Railroad companies shall keep all such improvements made by them in a good state of repair at all times.

Section 16-102 SIDEWALKS TO BE CONSTRUCTED BY RAILROADS.

Railway companies shall construct sidewalks crossing their rights-of-way, using the same material as is used in adjacent sidewalks insofar as this is practicable under the circumstances. They shall construct sidewalks on both sides of the streets when both sides are used by pedestrians. The company shall keep such sidewalks in a good state of repair at all times.

Section 16-103 CLIMBING ON TRAINS.

It is unlawful for any person to climb upon, hold to, or in any manner attach himself to, any railway train, locomotive, or railway car, while such is in motion within the city, unless such person is acting in line of duty; or to board any train or railroad car, including a passenger, freight, or other car, except with a proper

ticket or the permission of the person in charge of the train or car or in line of duty.

Section 16-104 SPEED LIMIT FOR TRAINS.

A. The maximum speed of railroad locomotives, engines, motorcars or trains of cars within the corporate limits of the city is twenty (20) miles per hour.

B. No engineer, conductor or other person in charge of a railway locomotive, railway engine, railway motorcar or train of cars shall operate and run the same or permit or suffer the same to be operated and run, along any track within the corporate limits of the city at a greater rate of speed than is prescribed and set forth in this Section.

C. Where grade crossings of any railroad tracks are protected by automatic crossing gates with arms or by wig-wag signals within the city, all trains passing through any grade crossings so protected shall not exceed a speed of fifty (50) miles per hour. Such automatic crossing gates or wig-wag signals shall close each and every grade crossing to highway traffic for a period of at least thirty (30) seconds before any train, or part of train, shall occupy the grade crossing.

Section 16-105 CROSSING GATES OR SIGNALS.

Any and all railroad companies which are now operating and which shall hereafter operate, any railroad line or lines within the corporate limits, or through the corporate limits, of the city, are hereby authorized to erect and install automatic crossing gates, with arms, at all railroad grade crossings in the city.

Section 16-106 TRAINS BLOCKING STREETS.

It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes. This provision shall not apply to railroad trains or cars in motion, other than those engaged in switching.

Section 16-107 UNNECESSARY NOISES PROHIBITED.

It is unlawful for any engineer or other person while operating a locomotive within or through the city to cause unnecessary or prolonged blasts with a whistle on the locomotive or to allow or cause any unnecessary noises from such locomotive.

ARTICLE 2 CHEROKEE-ALFALFA COUNTY REGIONAL AIRPORT

Section 16-201 CHEROKEE AIRPORT BOARD CREATED; CHEROKEE-ALFALFA COUNTY REGIONAL AIRPORT ADVISORY BOARD CREATED

- A. There is hereby created the Cherokee Airport Board. The Board shall consist of five members, to be appointed by the Mayor and confirmed by the City Council of said City, who shall serve a term of five years each, and until their successors shall be appointed and qualified; provided, however, that of the original board appointed, one of said members shall serve a term of one year, one of said members shall serve a term of two years, one of said members shall serve a term of three years, one of said members shall serve a term of four years, and one of said members shall serve a term of five years. Vacancies shall be filled for the unexpired portion of the term by the Mayor of the said City. Members shall serve without compensation. The Board shall choose one of its members as chairman, and the City Clerk shall act as secretary of the Board but shall not be a member. The Board may adopt and from time to time amend rules of procedure.
- B. There is hereby created the Cherokee-Alfalpa County Regional Airport Advisory Board consisting of seven (7) members; three members shall be appointed by the Alfalfa County Commissioners and four members shall be appointed by the Cherokee City Council (of which two members must live within the corporate limits of the City and the other two may live within Alfalfa County but must store aircraft at the airport. The members will serve for three years and without compensation. No member of the Board shall have a direct interest in the airport or in any entity located at the airport, or its hangars, except that this section shall not prohibit an airplane owner who houses their plane at the airport or an employee who works for the owner of a business or hangar located at the airport from being on the Board. An owner of a hangar or lessee of a hangar is allowed to serve on the Board but is specifically prohibited from voting on any hangar related economic or proprietary issues. The Board shall have power to make recommendations to the Cherokee Airport Board and the governing body of the City and County regarding the planning, operations and development of the airport facility. The Board shall have the power to plan, acquire, establish, operate, develop and protect the airport facility, subject to the City of Cherokee's and Alfalfa County's approval. The total expenditures to be made by the Board for any purpose in any fiscal year shall be determined by budget approved by the governing bodies of Cherokee and Alfalfa County. Any resolutions, rules, regulations or orders of the Board shall become effective only upon the approval of the governing bodies of Cherokee and Alfalfa County. The Board may not acquire or dispose of airport property, real or personal, enter into contracts, leases or other agreements without the

consent of the City Council of Cherokee and Alfalfa County Commissioners. The Board shall have no employees but will be assisted by the airport manager who will be an employee of the City of Cherokee and serve under the direction of the City Manager. The City Attorney for the City of Cherokee shall serve as legal counsel for the Board. The Board and other duties and operations shall be governed by an agreement between the City and Alfalfa County.

Section 16-202 CONTROL OF CHEROKEE MUNICIPAL AIRPORT

The Cherokee City Council shall have charge of and control of the Cherokee Municipal Airport and shall be authorized to make rules and regulations governing the management, improvement, maintenance, operation, and regulation of said airport. The Cherokee Airport Board shall work with the airport engineer on projects for the airport, shall make recommendations concerning the operation and maintenance of the airport and shall act, at all times, as an advisory board to the City Council.

Section 16-203 BUDGET

The Board shall, each year prior to June 1st, prepare a budget for airport finances for the ensuing calendar year and submit it to the City Manager. The budget shall show the following:

- A. Estimated revenues, divided as follows:
 - 1. Federal and State grants;
 - 2. Contribution from City;
 - 3. Miscellaneous revenues.
- B. Estimated expenditures, divided as follows:
 - 1. Personnel services;
 - 2. Service other than personnel;
 - 3. Supplies and materials
 - 4. Equipment;
 - 5. Real estate and improvements;
 - 6. Miscellaneous expenditures.

Such budget shall be submitted not later than May 1st to the City Manager and it shall be included in the budget of the City. All revenue received from the airport, whether due to oil and gas activity, hangar leases, fuel sales or any other revenue shall be placed in a special airport account as provided in Section 16-204 and used for airport activities. All expenditures, procurement and all other activities dealing with the expenditure of airport monies shall be subject to the provisions of the City's purchasing ordinance and manual, if applicable.

Section 16-204 AIRPORT FUND

For the purpose of financing the necessary expenditures in carrying out the purposes of this Chapter, there is hereby created in the City accounts and treasury a special fund to be designated the "Airport Account" wherein revenue is obtained by the municipality from the ownership, control, or operation of the airport shall be deposited, appropriated, and used in conformity herewith.

Section 16-205 REPORT OF ACTIVITIES AND FINANCES

The Board shall, as soon as possible after the end of each fiscal year, prepare and present to the City Board a comprehensive annual report of its activities and finances.

Section 16-206 REPEAL

All ordinances and parts of ordinances in conflict herewith are hereby repealed, and should any portion or section be for any reason declared illegal or inoperative for any reason, the remainder shall not be so construed unless specifically declared to be illegal or inoperative.

ARTICLE 2

RULES GOVERNING AERIAL APPLICATION OPERATIONS
ON CHEROKEE MUNICIPAL AIRPORT

Section 16-210 RULES

A. A need exist to refine and update the policy whereby users of the Cherokee Municipal Airport may be afforded a fair and reasonable opportunity, without discrimination, to use the facilities for Aerial Application and further be afforded the opportunity to qualify, or otherwise compete for airport space and the furnishing of selected aeronautical services.

B. The airport shall be open for the use of Aerial Applicators subject to such fees, charges and regulations as may be established from time to time by the City without discrimination toward this class of users. The use of the airport or its facilities in any manner shall create the obligation and the implied consent of the user to obey all of the regulations herein as well as Local, State, and Federal Regulations regarding Aerial Applicators and abide by the minimum standards hereinafter stated.

Section 16-211 DEFINITIONS

Aerial applicators: any person or firm involved in delivering or applying any herbicide, pesticide, fertilizer, seed, or other

agricultural product by airplane.

Chemicals: any herbicide, pesticide, fertilizer, seed, or other agricultural products.

Section 16-212 INDEMNITY

A. The privilege of using the airport and facilities shall be conditioned on the assumption of full indemnity and hold absolutely harmless the City, its officers and employees and the Airport Board from any liability or loss resulting from such use as well as against claims of third persons using the airport. The exercise of the privilege of use shall constitute an acknowledgment that the City maintains the airport in a governmental capacity.

Section 16-213 AERIAL APPLICATION

Any person using the airport for agricultural aerial application which involves the loading, unloading, and storage of chemicals must maintain a base of operations at the airport must have entered into a written agreement with the City. Such person must be licensed by the proper agencies, show evidence of carrying required insurance, and obtain a City Permit.

Section 16-214 ANNUAL PERMIT

An annual permit shall be issued to each applicator from the City of Cherokee at the cost of \$250.00 per aircraft. The permit will include the name of the aircraft, with "N" numbers, pilots, and pilot certification number. Changes are permissible when requested in writing to the Airport Board. They may be granted by the City Manager without further consideration. Permits shall be valid for one year only beginning 1 January 1999, thereafter running from 1 January to 31 December of the same year. The City Manager may suspend the permit at any time that they believe that the operator has violated the provisions of this ordinance. The permit may be revoked if the violation is proved during a public hearing before the City Council. During this hearing, the operator may present whatever evidence he may choose, to prove this adherence to the provisions of this Chapter.

Section 16-215 CERTIFICATE OF INSURANCE

The operator will provide the City Clerk a signed certificate of insurance at the time of application for a permit. The certificate will state the insured has liability protection for all chemicals that will be dispensed from the aircraft and will specify the chemicals. The certificate will also state the City will be notified within 15 days if the insurance is canceled for any reason. The effective period of insurance will be the same period as the permit, otherwise the applicator will provide the City with updated proof of insurance at

least five (5) working days prior to the end date of the current policy. It is the sole responsibility of the applicator to provide the City with adequate documentation of insurance. Failure to do so will automatically void the current permit and require the applicator to reapply for a new permit at the established rate of \$250.00. Minimum insurance required:

General Liability & Property Damage

Bodily Injury	\$50,000 each person
	\$100,000 each accident
Property Damage:	\$50,000 each accident
	\$100,000 combined single limit

Any accident or incident involving the spill of chemicals shall immediately be brought to the attention of the City Manager. Cleanup of any chemical spills shall be immediately performed by the applicator at his expense. Any cleanup resulting from any spillage shall be performed in accordance with all Federal, State, and Local laws, rules, and regulations pertaining to the same

Section 16-216 SPILLS, APPLICATORS & STORAGE AREA

A. An uncontained spill is defined as more than five (5) gallons of liquid or ten (10) pounds dry weight of pesticide concentrate or fifty (50) gallons of an application mixture (tank mix) shall constitute a spill for chemical damage and cleanup. Such a spill must be reported within twenty-four (24) hours to the City Manager and all other Local, State, and Federal agencies required by law.

B. A segregated chemical storage area protected from public access will be provided by the Applicator and approved by the City Council. Empty containers will be disposed of in accordance with applicable Federal and State laws. Agricultural spray aircraft or chemicals will not be stored/parked inside city owned hangers.

C. Aircraft shall not be left running without a qualified pilot at the controls. Agricultural aircraft shall not be refueled, loaded or unloaded with chemicals, or otherwise serviced while the engine is running; unless a qualified pilot is at the controls.

D. The applicator shall be required to provide the City and City Council with a permit bond in the amount of \$10,000.00 with the City of Cherokee as the obligee. The purpose of the bond is to ensure all rules and regulations concerning the airport are complied with and all chemicals are properly stored or properly disposed of. The applicator will not commence operations until the bond requirements herein have been satisfied and delivered to the City Clerk.

E. The applicator shall provide the City a complete list of the types of chemicals stored by him at the initial onset of his operation.

A "Civil Defense" hazard warning sign will be installed on each storage building or tank to inform emergency personnel of contents. Applicators shall notify the City of any significant change in the types of chemical uses. The City shall make the list available to the Fire Chief and other emergency personnel. All chemicals, pesticides and substances used by the applicator shall be stored in a storage building or tanks capable of being locked and secured. Under no circumstances shall any chemicals, substances, empty containers or pesticide be outside a building in an unsecured situation at the close of the business day or at any time applicators business is unattended.

F. No permit shall be issued until the applicator is in compliance with all provisions of this Chapter. In the event a permit is issued and one of the provisions of this ordinance is breached, said permit can be revoked on proper notice and hearing.

Section 16-217 LONG TERM LEASE

The City Council may enter into a long-term lease with an Aerial Applicator for City property at the airport for construction of a fixed base of operations for an aerial spraying business. This fixed base will be separated from the general aviation facilities by as much distance as available at the time of the lease. Terms and conditions of the lease will be approved by the City Attorney prior to its effective date.

CHAPTER 17. UTILITIES

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CHAPTER 17. UTILITIES

ARTICLE 1

UTILITY SYSTEMS GENERALLY

Section 17-101 LEASE OF SYSTEMS

The city leases its water, sewer and sanitation systems to the Cherokee Development Authority, (hereinafter "authority" or "Authority" or "trust" or "Trust") a public trust. The trust has the power to set rates and otherwise to regulate the water, sewer and sanitation systems. The motions and resolutions adopted by the trust replace any ordinances which the city had relating to these matters. For the motions and resolutions passed by the trust, please refer to the minutes of the Cherokee Development Authority. A copy of the trust indenture relating to the leasing of these systems is on file in the office of the city clerk.

Ed. Note: See also special ordinances for various ordinances setting rates and governing the utilities.

Ed. Note: Water, sewer and refuse collection systems are leased to the Cherokee Development Authority and regulated by the authority. The ordinances and indenture grant to the authority the ability to govern these utilities.

Section 17-102 ACCESS TO CITY AND AUTHORITY; AGENTS

A. It is unlawful and an offense for any person to obstruct or deny access to or prevent the reading of water meters in the city by the city or authority, its agents, employees, or officers by parking any vehicle or place any obstruction over or on top of the water meter covers or to permit any vehicle to be parked or located above or on top of the water meters. Each day's continuation of any such violation shall be deemed a separate offense.

B. It is unlawful to make threats of any type to officers, agents, or employees of the city or authority in the performance of their duties or to prevent the officers, agents, or employees from performing their official duties in reading the water meters or by limiting the access to water meters in any other manner not limited to those mentioned above.

Section 17-103 RULES ADOPTED, PENALTY

The rules, regulations or rates of the Cherokee Development Authority, as amended from time to time, are hereby adopted and

incorporated herein by reference. Any violation of the rules, regulations or rates is punishable as provided in Section 1-108 of this code.

ARTICLE 2

BILLINGS AND GENERAL PROVISIONS

Section 17-201 UTILITY FEES AND BILLINGS IN GENERAL

All fees and charge in connection with any customer's use of the sanitary sewer system, the water facility system, the collection or disposal of refuse and garbage, are billed in accordance with applicable rates set by motion or resolution of the authority. All fees and charges owing for any of these utility services shall be billed monthly. The utility bills submitted under the terms of this Section are payable on or before the past due date which is printed on the bill.

Section 17-202 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS

A. The appropriate city department head shall approve any request for a water tap and connection, a sewer tap to an existing line or a sewer tap to a new line. Approvals shall be based on engineering and legal considerations. An appeal from the denial of an application request may be taken by filing a written appeal to the City Board within ten (10) days of the denial. Prior to granting this approval, the customer shall have paid the deposit and connection or charge as applicable and set by motion or resolution. The deposit shall serve as a guarantee for the payment of charges for utility service and other amounts owed in connection with the utility service. It shall be held in trust by the authority. When a customer's utility service is disconnected, the deposit or any part of such amount deposited which remains after all such charges and amounts due the city have been satisfied, shall be returned to the customer, or to the state if unclaimed by the customer, after notice as required by law.

B. Any person making an application for utility service shall make a deposit with his application as set out by the city. The deposit shall be held by the city clerk. Such deposit shall be a cash deposit.

C. At any time the person having made the deposit, should desire to discontinue the use of utility services, he shall notify the city clerk, in writing, and shall accompany his notice with all arrears, if any. In the case the notice is not accompanied with the charges, then the city shall deduct from the deposit the amount of the utility

charges against the meter, and the balance, if any, shall be returned to the person making the request for discontinuance.

F. A fee for reconnection of utility service where the service has been turned off or a meter has been disconnected by the authority for any reason shall be collected by the City. For any reconnection of utility service the charge shall be set by the city. In addition, any person charged a reconnection fee due to a cut off for nonpayment who does not have a deposit posted, shall be immediately required to post the applicable deposit prior to the reconnection to the utility system.

Section 17-203 OTHER UTILITY FEES OR CHARGES

The authority from time to time by motion or resolution has the power to establish rates and charges governing all aspects of the utility services, including monthly service fees, connection fees and charges, and deposits.

Section 17-204 RESERVED

Section 17-205 CONSUMER TO ADVISE OF CORRECT ADDRESS

Every utility consumer, whether he be the owner or tenant, shall keep the utility department advised as to his correct mailing address. Failure to receive utility bills shall not be a valid excuse for failure to pay same when due.

Section 17-206 JOINT BILLING

The monthly charges to any premises for utility services shall be billed monthly on a single bill or statement to each owner or occupant liable therefor; provide however, that such bill or statement shall separately state the charges for each utility service rendered to the premises.

Section 17-207 DUE DATE AND PENALTY FOR PAYMENT

Utility bills shall be rendered monthly by the city, and all bills shall be due and payable according to the stated due date listed on the bill.

Section 17-208 NOTICE OF INTENTION TO TERMINATE SERVICE

Utility consumers' bills will be computed at the net rates and shall be payable on or before the due date, each and every month. Bills of all utility customers not paid by 5:00 P.M. on the 15th day of each and every month, or in the event that the 15th falls on a holiday or weekend, then on the first business day after the 15th day of each

and every month (hereinafter referred to as the "penalty date"), will be classified as delinquent and shall be subject to an additional late charge of Ten Dollars (\$10.00) or Ten Percent (10%) of the outstanding balance, whichever is greater. If any utility bill, or part thereof, shall remain unpaid on the penalty date, or if one or more of the enumerated reasons as provided by Section 17-209 permitting termination of utility service is alleged to have occurred, the city shall give written notice of the enumerated reason for termination to the occupant of the premises for which such bill was rendered, who shall be deemed the agent of the owner of the premises for the purpose of notice, by mailing a notice to the service location. Such second notice will specify the amount due, with penalties and/or setting out specifically the enumerated reason for termination of utility service and advising of the utility department's intention to terminate service on a date not less than forty-eight (48) hours (exclusive of Saturday, Sunday and holidays) after the mailing of such notice. Such notice shall also contain a statement to the effect that the owner or occupant may meet with a City or an Authority employee to discuss the delinquency within such forty-eight (48) hour period and state the telephone number at city hall where such officer or employee may be contacted to request a hearing.

Section 17-209 ENUMERATED REASONS FOR TERMINATION OF UTILITY SERVICE; TERMINATION OF SERVICE; RECONNECTION SERVICE CHARGE; LANDLORD RESPONSIBLE FOR BILL UNDER CERTAIN CONDITIONS; DOCUMENTATION REQUIRED.

A. The City may disconnect and terminate service to a utility customer for any of the following reasons:

1. Nonpayment of all or any portion of an undisputed bill or a bill which is no longer disputed or for which the city's dispute process has been completed.

2. Failure to comply with the terms and conditions of a payment agreement as provide for in Section 17-210.

3. Failure to post a deposit as prescribed by City Code.

4. Failure to make application for service.

5. Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name,

relative's name or another person's name as a device to escape payment of an unpaid obligation for city service provided to the utility customer. For purpose of further interpretation of this subsection, the failure of a previous owner or occupant at the premises to pay an unpaid or delinquent account shall not constitute grounds for termination, unless the previous occupant remains an occupant or user of the City service at the premises, and in such event, the service may be properly terminated.

6. Violation of any rule or regulation of the City.

7. Unauthorized use of a city utility accomplished through bypassing of the City's measuring equipment or tampering with wires, meters, pipes or other City equipment.

8. Whenever the City has reason to believe that continued service will create a condition on the utility customer's premise that is dangerous to persons or property.

9. Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of City equipment installed upon the premises of the utility consumer, or obstructed city easement of right-of-way, or maintaining any obstruction that would deny access for these premises.

10. Potential adverse effect of the service required by the consumer on the service of other utility customers of the City, provided the utility customer has been notified and given a reasonable opportunity to correct the adverse effect.

11. Abandonment of the premises served.

12. Upon request of the utility customer.

13. Causing an injury or threatening to cause an injury to an employee of the City or the family of an employee of the City or the property of the City for the purpose of preventing a City employee from engaging in activities authorized by law or in retaliation for such activities.

14. Violation of the City's rules regarding the operation of nonstandard equipment or unauthorized attachments if the utility customer was notified first and given a reasonable opportunity to comply with the rules.

15. Violation of federal, state or local laws or regulations through use of the service.

16. Causing damages to City property.

17. A condition exists which poses a health or safety hazard.

B. If a utility bill remains unpaid, in whole or in part, or such service is subject to disconnection allegedly based on one of the enumerated reasons set out in subsection A hereinabove, after service of the required termination notice and the appropriate time period of such notice has expired, and if:

1. No hearing before a trust officer or employee has been requested; or

2. After such hearing such charges are found to be properly imposed and/or the enumerated reasons found to have occurred;

then the utility service may be terminated.

C. In the event that a tenant terminates its tenancy and the City does not receive the delinquent utility amount owed, prior to the re-establishment of service to a new tenant at such same residence or business, both the new tenant and the landlord shall establish utility service with the City, with both the new tenant and landlord responsible for the payment of the monthly billing.

D. A reconnection fee in the amount of Seventy-five Dollars (\$75.00) for reconnections occurring during normal business hours, Monday - Friday, 8:00 a.m. through 5:00 p.m., or Eighty Dollars (\$80.00) for reconnections occurring after normal business hours, plus payment in full of the past due bill and penalties will be charged and collected prior to restoration of service. In addition, if the respective utility deposit is less than Two Hundred Dollars (\$200.00), the delinquent utility customers utility deposit shall be increased to Two Hundred Dollars (\$200.00), prior to restoration of service.

E. In the event that a tenant terminates its tenancy and there is an unpaid balance after applying the deposit, if any, prior to the re-establishment of service to a new tenant or any other person at such same residence or business, both the new tenant and the landlord shall establish utility service with the City, with both the new tenant and landlord responsible for the payment of the monthly billing. This requirement shall remain in place so long as the landlord retains any interest in the residence or business.

F. All customers must show sufficient proof of rights as a tenant to the rental property (i.e., written lease agreement, or signed letter from landlord) or ownership of the real property (i.e., deed,

or closing documents) as a part and condition of receiving utility service.

G. Insufficient instrument presented as Payment. As costs for handling and processing, a charge of Twenty-five Dollars (\$25.00) shall be charged any person making a payment to the City with a credit card, debit card ACH (Automatic Clearing House) or other negotiable instrument or method or means of payment absolutely upon an account containing funds insufficient to pay the account.

H. Transfer fee; Disconnection fee to Customer in Good Standing. Whenever an existing utility customer desires to transfer their utility account from an existing address to a new service address a charge of Thirty Dollars (\$30.00) shall be assessed. A Disconnection fee of Thirty Dollars (\$30.00) shall be charged when a customer in good standing makes a request to temporarily suspend service to their service address; the reconnection charge of Seventy-five Dollars (\$75.00) will not be charged to re-establish service to the service address.

Section 17-210 PAYMENT ARRANGEMENTS.

The city officer or employee may make payment arrangements with any utility customer who have had continuous utility service with the City for at least one year and who makes a personal visit to city hall before the termination date as set out in Section 17-208. If payment arrangements are desired and approved by the city officer or employee, the utility customer may be required to sign a written agreement acknowledging the owed amount and agreeing to the payment arrangements. If the utility customer's gross bill, including any subsequent month's service incurred after signing a payment arrangement contract, is not totally paid within the previously agreed upon payment arrangement date, the city may terminate the utility service.

Section 17-211 PERSONNEL MAY INSPECT PRIVATE PREMISES.

Authority personnel in the service of the utility systems may enter any private premises served by the water, sewer or other utility systems at any reasonable time, and inspect the pipes, lines, fixtures and connections on the premises.

Section 17-212 RESERVED

Section 17-213 CITY'S RIGHTS AND RESPONSIBILITIES.

A. When an application for utility services has been approved, the city shall cause to be installed a meter or tap as appropriate and connect the same with the authority for utility service. The city, at all times, shall have the right to enter upon the premises for the

purpose of inspecting, maintaining, (including tree-trimming), reading of meters, and for the purpose of repair or adjustments of meters. The application and the installation of a meter or tap on the premises shall constitute a contract and agreement between the city and the persons making the application to pay for utility services applied for at the rate and manner specified by the city. The city does specifically reserve the right to charge and collect the rate and enforce the penalties in the manner herein provided, to change the rates at any time by ordinance or resolution, to temporarily discontinue the service at any time, without notice to the customer when necessary for repairs or some other emergency at the discretion of the city. Unreasonable impediments to the reading of any utility meter shall constitute sufficient grounds for discontinuation of service (following proper notice) until the impediment has been removed by the customer or his agent to the satisfaction of the city.

Section 17-214 CUSTOMER REGULATIONS AND RESPONSIBILITIES.

A. The customer will not sell the utility service purchased from the city to any other person unless the rate schedule under which he is served provides for such a resale. The customer will not be permitted to extend or connect the installation of lines across or under a street, alley or other public space in order to obtain service for adjacent property through one meter or tap unless such adjacent property is a part of the same business, actually continuous except for intervening public space.

B. The customer will be responsible for all damage to, or loss of, the city's property located upon his premises, unless occasioned by causes beyond his control, and shall not permit anyone who is not an agent of the city to remove or tamper with the city's property.

C. As costs for handling and processing, Twenty-Five Dollars (\$25.00) shall be charged any person paying the City with a negotiable instrument upon on account containing funds insufficient to pay the charge. This Twenty-five (\$25.00) fee, together with all other fees, deposits and other required charges, shall be paid to the City prior to restoring utility service.

Section 17-215 COLLECTION FEE

Whenever the City or its public trust authority refers an unpaid debt or an unpaid account receivable to a collection agency, including but not limited to an unpaid fee, penalty, interest, or other sum due, or a court penalty, cost, fine or fee in cases in the municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court (hereinafter collectively referred to as an "unpaid debt or account"), a collection fee in the amount of thirty-five percent (35%) of the unpaid debt or

account shall be assessed and collected.

Section 17-216 METHOD FOR REVIEW AND RECALCULATION OF UTILITY RATES.

A. Rates, fees and charges for all utility services shall be based upon an analysis of the actual cost of services to the City for providing each such utility service, to include operation, maintenance and replacement.

B. It is the purpose of this section to assure the recovery of costs from users of the City's utility systems for sustaining and improving the utility services established herein.

C. As soon as practicable following the receipt and acceptance of each successive year's fiscal audit, the City Manager and/or his designee, shall analyze the actual cost of services to the City for providing each such utility service. Such written analysis shall include a revised set of rates, fees and charges for all municipal utility services. Such written analysis shall thereafter be submitted to the City Board together with a corresponding rate ordinance.

D. If any revised rate ordinance is approved by a majority vote of the members of the City Board, with a separate approval of an emergency clause, and thereafter published as provided in the Cherokee City Charter, the new rate shall be implemented at the billing immediately following such approval or as soon as practical thereafter.

Section 17-217 ALL MUNICIPAL UTILITY RATES ANNUALLY SUBJECT TO INCREASE OR DECREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS WITH A MINIMUM AMOUNT.

Notwithstanding any other provision of this Code providing a differing municipal utility rate, all municipal utility rates authorized by Chapter 17 and/or provided for in Chapter 18 of this Cherokee Municipal Code as amended, shall be automatically increased or decreased, each successive July 1, in the same percentage amount as the increase or decrease in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (Class B) in the South Region for all items during the period from March 1 of the previous year as compared with March 1 of the current year, and without any required action by the City Council for implementation; provided however, if such percentage amount is less than three percent (3%), the automatic increase shall be three percent (3%). This increase or decrease in utility rates shall be in addition to any increase or decrease in utility rates approved by any municipal ordinance.

ARTICLE 4

WATER SERVICE

Section 17-401 APPLICATION FOR WATER SERVICE.

When any person desires to connect with the water system of the city, he shall apply to the office of the Utility Superintendent for a written permit, which shall bear the name of the applicant, the location of the property to be served, including the street name, lot and block number, and the class or kind of service for which it is to be used, together with the name of the plumber or contractor who has been employed to do the work.

Section 17-402 METERS

A. All tapping shall be paid for by the consumer, including all necessary fittings, work and material used in connection therewith. The city will furnish all meters and necessary fittings for installing same together with suitable box for same where necessary, excepting where a meter of larger capacity than one inch is required, in such case the consumer will be required to purchase and install same at his own expense under the supervision of the superintendent, the meter to be of standard manufacture and of a type approved by the department, and shall apply to all present and future users of meters.

B. The city will keep in good repair at its own expense all water meters of its own installation, excepting where meters have been damaged by carelessness or wrongdoing of the user, when same shall be repaired and charged against the consumer.

C. All connections made to any water main of City shall be made with such type of pipe and fittings as shall be designed by the City Manager. Such pipe to extend from the water main to the water meter shall be the responsibility of the City. Such pipe that extends from the water meter to the customer shall be the responsibility of the landowner and such pipe fittings shall be kept in good repair.

Section 17-403 THEFT OF WATER.

Any person, firm, or corporation who shall by fraud or stealth in any way obtain water service without having first made application to the office of the department in regular form, shall be guilty of an offense, and upon conviction thereof shall be punished accordingly. The amount of water that has been obtained by any person, firm or corporation without such water having been permitted to go through the meter designated and placed for such person, firm, or corporation shall be estimated by the average amount used by such person, firm, or corporation during the past three (3) months that meter operated, and

the person, firm or corporation shall pay for same at the rate fixed by authority of the city ordinances. In any case where thereafter is committed, the city shall have the right at the expense of the owner to install a boot and lock for the water meter and pit as a precaution against further theft.

Section 17-404 FAILURE OF WATER SUPPLY.

In case the supply of water shall fail, whether from natural causes or accidents of any kind, the city shall not be liable for any damage of any kind by reason of such failure.

Section 17-405 CITY LIABILITY.

The city is merely a supplier of water delivered at the curb valve of the consumer's installation, and is not responsible for any damage to apparatus, equipment, or other property of the consumer, either from wear or tear or inherent defects in the installation.

Section 17-406 WATER METER LOCATION.

The location of the water meter will be at a location on the line extension to be designated by the water department of the city.

Section 17-407 MAIN VALVES.

All main valves throughout the entire water system are for the exclusive use of the city in making repairs, extensions, and other improvements; and no person, firm, or corporation shall, under any circumstance, use or tamper with them without written consent of the superintendent of the departments. All fire hydrants and public hydrants of all kinds are directly under the control of the city. Any person, firm, or corporation who shall tamper with or secure water from any of these places in any other way than that for which they are intended shall be guilty of an offense and shall be punished accordingly.

Section 17-408 DEFINITIONS.

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

Adjoining or adjacent as used in this article shall refer to a water line which is or has been laid, placed, or constructed on either side of a street right-of-way or within an easement abutting a particular parcel or tract.

Connection as used in this article shall mean the tapping into a public water line, installation of a water meter, and the placement of

a private service line between the meter and a building or structure, in a manner approved by the building official, which will permit the usage of the city water system.

Private service line as used in this article shall mean that portion of the water supply system located on private property, extending from the water meter to a building or structure.

Public service line as used in this article shall mean that portion of the water line located on public property, extending from the water main to the water meter.

Water line as used in this article shall mean all water mains, valves, hydrants, and public service lines and connections which are laid, placed, or constructed in a public street, alley or easement and form a part of the water system of the city.

Section 17-409 REMOVAL BILLS; SPECIAL BILLS.

Bill rendered on vacation of premises or bills rendered to person discontinued service must be paid on presentation.

Section 17-410 SERVICE REGULATION.

The authority reserves the right, in cases of emergency, to govern and regulate the use of water to all consumers by resolution or proclamation as they deem proper for the public health and safety.

Section 17-411 WATER CONNECTION REQUIRED.

A. All buildings or structures, construction of which commenced, or to which additions other than porches or garages were made prior to January 1, 2008, and

1. A water line was available prior to January 1, 2008, in any street, alley, or easement adjoining or adjacent to the premises upon which the building or structure was located, and

2. Such building or structure was not connected to the city water system as of January 1, 2008, shall have all kitchen, culinary, bathroom and drinking facilities connected to the city water system. Provided, however, all buildings or structures which are required by this section to be connected but are not connected to the city water system as of January 1, 2008, shall be permitted an additional one (1) year amortization period from and after the effective date of this section to connect to the city water system. It is the declared intent of the City Council that requiring the connection of these buildings and structures to the water system promotes the health, safety and welfare of the community by: (1) furnishing potable water for kitchen,

culinary, bathroom and drinking purposes; (2) allowing the owner(s), lessee(s), or person(s) in lawful possession and control of such buildings or structures to participate in the payment of the costs of the construction, maintenance and operation of the city water system, including the new reverse osmosis facility, and in addition, to help fund all the other non-revenue producing functions and services of the municipal government; (3) substantially reducing the possibility that the owner(s), lessee(s), person(s) in lawful possession and control of such building or structure or unknowing members of the public will receive contaminated or polluted water through a nonpublic water source, including but not limited to water high in nitrates or other contaminants; and (4) providing additional funds to better ensure fire safety and protection. The purpose of the amortization period is to provide the owner(s), lessee(s) or person(s) in lawful possession and control of such buildings or structures with a reasonable period of time to recoup the costs of the construction, operation and maintenance of the alternate water source and to connect with the city water system.

B. All buildings or structures, construction of which is commenced, or to which additions other than porches or garages are made after January 1, 2008, shall have all kitchen, culinary, bathroom and drinking facilities connected to the city water system within ninety (90) days after the same becomes available in any street, alley or easement adjoining or adjacent to the premises upon which the building or structure is located. Connection to municipal water shall also be required if the building or structure is or will be adjoining or adjacent to the municipal water line at the time of the issuance of a building permit.

C. Every building or structure in which plumbing fixtures are currently installed and are for human occupancy or habitation and to which building or structure the municipal water system is not available in any adjoining easement, alley or street on January 1, 2008, shall be connected to municipal water for kitchen, drinking, bathroom and culinary purposes within ninety (90) days after the same becomes available in any street, alley or easement adjoining or adjacent to the premises upon which the building or structure is located.

D. All buildings or structures which are provided with municipal water for kitchen, drinking, bathroom and culinary purposes on January 1, 2008, shall continue to be so connected to municipal water at all times. Any person who owns, rents or is in lawful possession or control of a building or structure, which building or structure on January 1, 2008, or anytime thereafter, is connected with city water, shall be deemed a customer of the utility system.

E. This section shall not be construed to limit the city's authority to require connection for new development pursuant to the subdivision regulations of the city.

F. All water used for kitchen, culinary, bathroom and drinking facilities from nonpublic water sources shall meet primary drinking water standards set forth by the state department of health and environmental protection agency. Should, at any time, the water quality violate these standards, the person shall, within thirty (30) days, bring the water into compliance with all primary drinking water standards. If not corrected within that time period, the water supply well(s) shall be disconnected by such person and the private distribution system shall be immediately connected by such person to a municipal water supply system.

G. No person who owns, rents, or is in lawful possession or control of a building or structure which is required to be connected to municipal water, shall fail to connect to such municipal water.

Section 17-412 RESTRICTING THE USE OF WATER DURING AN EMERGENCY.

Water restrictions imposed by City Manager. In case of emergency caused by a shortage of water in the city water system, it shall be the duty of the City Manager to give immediate notice, by publication in a newspaper of general circulation in the city, to the customers of the water system, restricting the use of water obtained from the water system, as the City Manager may designate for so long as such water shortage shall last. Thereafter, and until the City Manager proclaims that the emergency is at an end, it shall be unlawful for any person, corporation or entity, directly or indirectly, to use water obtained from the authority water system for any purpose or use specifically prohibited by the public notice.

Section 17-413 WATER RATES.

The water rates to be charged shall be as set out in Chapter 18 herein.

Section 17-414 REGULATIONS CONCERNING WATER WELLS

Any owner, lessee or person in lawful possession and control of any real property located within the City desiring to locate a water well on such real property shall first secure a water well drilling permit from the City Clerk and pay an one (1) time Ten Dollar (\$10.00) application fee. Any owner, lessee or person in lawful possession and control of any real property located within the City that has an existing water well on such real property shall within ninety (90) days of the effective date of this section secure a water well permit; provided no charge shall be made for excising water wells. No owner or person in possession and control of any real property located within the City shall permit its water well system to be connected, in any manner, with any public water line, or to any private service line

connected to any public water line, which connection could permit well water to enter the public water system. Water supplied from such water well may only be used for non-potable purposes, excepting those persons subject to the amortization period provided by Section 17-411, Subsection A.2, and then such water shall only be used for potable drinking water purpose for such one (1) year period and as long as such water complies with Section 17-411, Subsection F. In addition, any person who secures a water well drilling or water well permit and uses such water supplied from such water well for any commercial purpose, including but not limited to a commercial car wash, laundromat, and commercial power wash, and which such water enters the City's sewer system shall pay, on their utility bill an amount equal to two (2) times the minimum sewer charge of their billing classification. The purpose of this increase charge is to assist the City in costs of providing drainage and sanitary sewer services for such additional water for which no other municipal charge is made. No person required to secure such permit or pay such charge shall hereinafter fail in such obligation or same shall be an offense and punishable as provided by the general penalty of this code. No permit shall be issued for a water well within the city limits of the City of Cherokee of the driller/operator does not have an active license issued by the Oklahoma Water Resource Board.

ARTICLE 5

DISCHARGE INTO SANITARY SEWERS

Section 17-501 DEFINITIONS

As used in this Article:

- (1) "Approving Authority" means the City Manager or his duty authorized representatives;
- (2) "B.O.D." (Biochemical Oxygen Demand) means the quantity of oxygen by weight, compressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade;
- (3) "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection);
- (4) "City" means the City of Cherokee, Oklahoma, or any authorized person acting in its behalf;
- (5) "COD." (Chemical Oxygen Demand) means measure of the oxygen consuming capacity of inorganic and organic matter present in the

water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable matter and thus not necessarily correlating with biochemical oxygen demand;

- (6) "Control Manhole" means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer;
- (7) "Control Point" means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.
- (8) "Garbage" means animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from the handling, processing, storage and sale of food products and produce;
- (9) "Industrial waste" means waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of waste with water or normal waste water or distinct from normal wastewater.
- (10) "Industrial Waste Charge" means the charge made on those persons who discharge industrial wastes into the city's sewerage system;
- (11) "Mill grains Per Liter" (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water;
- (12) "Natural Outlet" means any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater;
- (13) "Normal Domestic Wastewater" means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 300 mg/l and BOD is not more than 250 mg/l; free of toxic materials, chemicals, heavy metals, radioactive wastes, and foreign matter in amounts in excess of that stated in Sections 15-503 through 15-509 of this Article;
- (14) "Overload" means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity;
- (15) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, and any other legal entity;
- (16) "pH" means the logarithm (Base 10) of the reciprocal of the

hydrogen ion concentration;

- (17) "Public Sewer" means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City of Cherokee, Oklahoma;
- (18) "Sanitary Sewer" means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which storm water, surface water, groundwater, and other unpolluted wastes are not intentionally passed;
- (19) "Slug" means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation;
- (20) "Standard Methods" means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed;
- (21) "Storm Sewer" means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed;
- (22) "Storm Water" means rainfall or any other forms of precipitation;
- (23) "Superintendent" means the Water and Wastewater Superintendent of the City of Cherokee, Oklahoma, or his duly authorized deputy, deputy agent, or representative;
- (24) "Suspended Solids" means solids measured in mg/l that either float on the surface of or are in suspension in water, wastewater, or other liquids and which are largely removable by a laboratory filtration device;
- (25) "To Discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release, or dispose of, or to allow, permit, or suffer any of these acts or omissions;
- (26) "Trap" means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances;
- (27) "Unpolluted Wastewater" means water containing:
 - (A) no Free or emulsified grease or oil;
 - (B) no acids or alkalis;

- (C) no phenols or other substances producing taste or odor in receiving water;
 - (D) no toxic or poisonous substance in suspension, colloidal state, or solution;
 - (E) no noxious or otherwise obnoxious or odorous gases;
 - (F) not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Water Quality Board; and Oklahoma State Department of Health.
 - (G) color not exceeding fifty (50) units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods;
- (28) "Waste" means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting domestic, agricultural, or industrial activities;
 - (29) "Wastewater" means a combination of the water-carried waste from residences, business building, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present;
 - (30) "Wastewater Facilities" includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes;
 - (31) "Wastewater Treatment Plant" means any City -owned facilities; devices, and structures used for receiving, processing and treating wastewater, industrial waste, and sludges from the sanitary sewers;
 - (32) "Wastewater Service Charge" means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal Wastewater;
 - (33) "Watercourse" means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently; and
 - (34) "Board" means the duly elected governing body of the City.

Section 17-502 PROHIBITED DISCHARGES

- (1) No person may discharge to public sewers any waste which by in itself or by interaction with other wastes may:
 - (A) injure or interfere with wastewater treatment processes or

facilities;

- (B) constitute a hazard to humans or animals; or
- (C) create a hazard receiving waters of the wastewater treatment plant effluent.

- (2) All discharges shall conform to requirements of this Article. The Approving Authority shall ensure that all water quality standards are met and that enforcement actions are taken when necessary.

Section 17-503 CHEMICAL DISCHARGE

- (1) No discharge to public sewer may contain:
 - (A) cyanide greater than 0.05 mg/l;
 - (B) fluoride other than that contained in the public water supply;
 - (C) chlorides in concentrations greater than 205 mg/l;
 - (D) gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or
 - (E) substances causing an excessive Chemical Oxygen Demand (C.O.D.)
- (2) No waste or wastewater discharged to public water may contain:
 - (A) strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
 - (B) fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solid & or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (and 65 degrees Centigrade).
 - (C) objectionable or toxic substances, exceeding an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Approving Authority for such materials; or
 - (D) obnoxious, toxic or poisonous solids, liquids, or gases in quantity's sufficient to violate the provisions of Section 2 (1).
- (3) No waste, wastewater, or other substance may be discharged into public sewers which has pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the waste water facilities.
- (4) All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances,

shall conform to concentration limits established by the Approving Authority, After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

Section 17-504 HEAVY METALS AND TOXIC MATERIALS

(1) No discharges may contain concentrations of heavy metals greater than amounts specified in subsection (2) of this section,

(2) The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with "Standard Methods" are:

Arsenic	0.05 mg/l
Boron	1.00 mg/l
Chromium (Total)	0.5 mg/l
Lead	0.50 mg/l
Mercury	0.005 mg/l
Selenium	0.05 mg/l
Zinc	1.0 mg/l
Barium	5.00 mg/l
Cadmium	0.05 mg/l
Copper	0.1 mg/l
Manganese	1.0 mg/l
Nickel	1.0 mg/l
Silver	0.1 mg/l

(3) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the Approving Authority specifying conditions of pretreatment, concentrations, volumes, cost of treatment, and other applicable provisions.

(4) Prohibited heavy metals and toxic materials include but are not limited to: Antimony, Beryllium, Bismuth, Cobalt, Molybdenum, Uranium, Ithium, Strontium, Tellurium, Herbicides, Fungicides, and Pesticides.

(5) Toxic materials and metals shall not be diluted in lieu of treatment or to reduce the discharge concentration.

Section 17-505 GARBAGE

(1) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow condition normally prevailing in public sewers. Particles greater than one-half ($\frac{1}{2}$) inch in any dimension are prohibited.

(2) The Approving Authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths ($3/4$) horsepower (0.75 up metric) or greater.

Section 17-506 STORM WATER AND OTHER UNPOLLUTED DRAINAGE

- (1) No new sewer connection may discharge to public sanitary sewers:
- (A) unpolluted storm water, surface water, groundwater, roof runoff or subsurface drainage;
 - (B) unpolluted cooling water;
 - (C) unpolluted industrial process waters; or
 - (D) other unpolluted drainage.

(2) In compliance with the Oklahoma Water Pollution Control Act and other statutes, the Approving Authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (1) of this section may be discharged.

Section 17-507 TEMPERATURE

No person may discharge liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (65 degrees Centigrade) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to one hundred ten (110) degrees Fahrenheit.

Section 17-508 RADIOACTIVE WASTES

(1) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the Approving Authority.

(2) The Approving Authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

Section 17-509 IMPAIRMENT OF FACILITIES

(1) No person may discharge into public sewers any substance capable of causing:

- (A) obstruction to the flow in sewers;
- (B) interference with the operation of treatment processes or facilities; or
- (C) excessive loading of treatment facilities.

(2) Discharges prohibited by Section 11-9(1) include, but are not limited to materials which exert or cause concentrations of:

(A) inert suspended solids greater than 250 mg/I including but not limited to

1. Fuller Earth
2. Lime slurries; and
3. Lime residues;

(B) dissolved solids greater than 500 mg/I including but not limited to:

1. sodium chloride; and
2. Sodium sulfate;

(C) excessive discoloration including but not limited to:

1. dye wastes; and
2. Vegetable tanning solutions;; or

(D) BOD or COD, in excess of normal plant capacity, taken as 250 him for DOD & COD.

(3) No person may discharge into public sewers any substance that may:

- (A) deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
- (B) overload skimming a grease handling equipment;
- (C) pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the non-amenability of the substance to bacterial action; or
- (D) deleteriously affect the treatment process due to excessive quantities.

(4) No person may discharge any substance into public sewers which:

- (A) is not amenable to treatment or reduction by the processes and facilities employed; or (I)) is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) The Approving Authority shall regulate the flow and concentration of slugs when they may appear:

- (A) impair the treatment process;
- (B) cause damage to collection facilities;
- (C) incur treatment costs exceeding those for normal wastewater; or
- (D) render tile waste unfit for stream disposal or industrial use.

- (6) No person may discharge into public sewers solid or viscous substances which may violate subsection (I) of the section if present in sufficient quantity or size including but not limited to ashes, cinder, sand, mud, straw, metal, shaving, glass, rag, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshing, entrails, paper products (either whole or ground by garbage grinders), slops, chemical residues, paint residues, or bulk solids.

Section 17-510 COMPLIANCE WITH EXISTING AUTHORITY

- (1) Unless exception is granted by the Approving Authority, the public sanitary sewer system shall be used by all persons discharging:
 - (A) wastewater;
 - (B) industrial waste;
 - (C) polluted liquids;
- (2) Unless authorized by the Oklahoma State Department of Health, no person may deposit or discharge any waste included in subsection (1) of this section on public or private property into or adjacent to any:
 - (A) natural outlet;
 - (B) watercourse;
 - (C) storm sewer;
 - (D) other area within the jurisdiction of the city.
- (3) The Approving Authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, Articles, rifles and orders of federal, state and local governments, and that the Authority shall insure that water quality Standards will be net or that the Authority will take such enforcement actions against violations of the provisions of this Article.

Section 17-511 APPROVING AUTHORITY REQUIREMENTS

- (1) If discharges or proposed discharges to public sewers may:
 - (A) deleteriously affect wastewater facilities, processes, equipment, or receiving waters;
 - (B) create a hazard to life or health; or
 - (C) create a public nuisance; the Approving Authority shall require pretreatment to an acceptable condition for discharge to the public sewers;
- (2) control over the quantities and rates of discharge; and
- (3) payment to cover the cost of handling and treating the wastes.

- (4) The Approving Authority is entitled to determine whether a discharge or proposed discharge is included under subsection (1) of this section.
- (5) The Approving Authority shall reject wastes when:
 - (A) it determines that a discharge or proposed discharge is included under subsection (1) of this section; and
 - (B) the discharger does not meet the requirements of subsection (I) of this section.

Section 17-512 APPROVING AUTHORITY REVIEW AND APPROVAL-INDUSTRIAL USER

- (1) If pretreatment of control is required, the Approving Authority shall review and approve design and installation of equipment and processes.
- (2) The design and installation of equipment and processes must conform to all applicable statutes, codes, Articles and other laws.
- (3) Any person responsible for discharges requiring pretreatment flow-equalizing, or other facilities shall provide and maintain tile facilities in effective operating condition at his own expense.

Section 17-513 REQUIREMENTS FOR TRAPS

- (1) Discharges requiring a trap include:
 - (A) grease or waste containing grease in excessive amounts;
 - (B) oil;
 - (C) sand;
 - (D) flammable wastes; and
 - (E) other harmful ingredients.
- (2) Any person responsible for discharges requiring a trap shall at his own expense and as required by the Approving Authority:
 - (A) provide equipment and facilities of a type and capacity approved by the Approving Authority;
 - (B) locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
 - (C) maintain the trap in effective operating condition.

Section 17-514 REQUIREMENTS FOR INDUSTRIAL SEWERS

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the Approving Authority:

- (1) install and accessible and safety located control manhole,
- (2) install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and
- (3) maintain the equipment and facilities.

Section 17-515 SAMPLING AND TESTING

(1) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property, and shall be conducted in accordance with the Standard methods of sampling effluents and wastewater which are employed by the Oklahoma State Department of Health.

(2) Examination and analysis of the characteristics of waters and wastes required by this Article shall be:

(A) conducted in accordance with the latest edition of "Standard Methods"; and

(B) determined from suitable samples taken at the control manhole provided or other control point authorized by the Approving Authority:

(3) BOC and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.

(4) The City is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken.

Section 17-516 PAYMENT AND AGREEMENT REQUIRED--INDUSTRIAL USERS

(1) Persons making discharges of industrial waste shall pay a charge to cover the cost of collection, treatment, and sampling.

(2) When discharges of industrial waste are approved by the Approving Authority, the City or its authorized representative shall enter into an agreement or arrangement providing:

(A) terms of acceptance by the City; and

(B) payment by the person making the discharge.

Section 17-517 USER CHARGES

(1) Industrial Charge

The user charge shall hereinafter be determined for any industrial user connecting to the City of Cherokee Sanitary Sewer System and shall be based on the actual cost of treatment based on quantity and quality of

waste product, in accordance with regulations of the Environmental Protection Agency.

(2) Domestic Charge

Every two years the Hoard shall review operation and maintenance costs for the previous year and set sewer user fees to proportion the distribution of O & M costs among users in accordance with their water consumption so as to recover all such sewer costs. Costs such as bond retirement, general governmental expenditures, and other legal municipal expenses may be included in the Sewer charges at the discretion of the Board. Operation and maintenance costs shall include the following items;

Operation. Salaries, billing, collecting, chemicals, power, transportation, and supplies for the previous year. Inflation raises or other anticipated increased costs may be included in this item.

Maintenance. Actual cost of preventative maintenance and repairs during previous 12 months and anticipated replacement cost of sewage equipment during next 12-month period. These costs shall also include those expenses accruing or accruing due to extraneous flows into the system.

The sewer costs shall be prorated to all domestic and commercial users on the basis of their water consumption during the 3 winter months (December, January, and February) using the following formula.

$$\text{Sewer Cost/100 gallons} = \frac{\text{Oper.} + \text{Main. (Annual)}}{\text{(Water Consumption)}} \times \frac{1000}{4} \times \frac{3 \text{ winter months water consumption for city}}{\text{water consumption for city}}$$

Using costs derived by the formula, the Board shall establish minimum monthly sewer fees and above minimum sewer fees for each user in a manner that essentially charges the sewer user in proportion to his water usage since winter time water consumption most nearly represents the contribution of liquid to the sewer system by each user. In cases where sewer users are not served by metered water, their sewer fee shall be set by the Board using average consumption for similar type users that are on water meters. Excess revenue collected from a user shall be credited to the future user fee for such class.

(3) Toxic Pollutant Charges

Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the treatment works shall pay for such increased costs.

(4) Notification

Each user shall be notified at least annually, in conjunction with the regular bill, of the sewer use rate and the portion of the user charges

which are attributable to wastewater treatment service. Costs shall be broken down to show the operation and maintenance costs attributable to that user.

(5) Charge for Extraneous Flow

The costs of operation and maintenance for all flows not directly attributable to users (such as infiltration/inflow) shall be distributed among users on the same basis as operation and maintenance charges.

(6) Records

A record keeping system shall be established and maintained by the City of Cherokee to document compliance with federal regulations pertaining to the user Article.

(7) Validity

All ordinance in conflict herewith are hereby repealed.

The invalidity of any section, clause, sentence or provision of this Article shall not affect the validity of any other part of this Article which can be given effect without such invalid part or parts.

The user charge system shall take precedence over any terms or conditions of agreements or contracts between the City of Cherokee and any of the users which are inconsistent with applicable federal regulations regarding user charge systems.

(8) Billing

Users will be billed on a monthly basis with payment due 15 days after the date of billing. Users on metered water service will be billed on the same notice as water charges and system not on metered water service will be billed monthly on an individual notice for wastewater service at the rate established by the utility superintendent. Users with delinquent accounts of 30 days will be notified in writing by the utility superintendent that water and/or wastewater services will be terminated unless the account is paid in full. The utility superintendent will utilize the law enforcement agency to assist as required in the control and management of the user charge system.

Section 17-518 NEW SEWER AND CONNECTIONS TO SEWER SYSTEM

All new sewers in the City shall be designed and installed in accordance with the standards for Water Pollution Control Facilities, latest edition, as published by the Oklahoma State Department of Health.

The construction plans for all new sewers shall be approved by the Oklahoma State Department of prior to actual construction of the

facilities.

All new homes, businesses or buildings having plumbing fixtures shall connect to the City sewer system if they are located within 300 feet of the City sewer collection system and such system can be utilized by gravity flow from the new facility.

All plumbing and connections to the sewer system on private property shall be installed in accordance with the adopted plumbing code.

Upon the effective date of this Article all new users shall be charged a fee of \$50.00 for each permit to connect to the sewer system.

Infiltration and exfiltration tests shall be conducted on all new sewer mains, collectors, laterals and service lines. Allowable infiltration/exfiltration rates shall be not greater than 250 gallons per inch of pipe diameter per mile of pipe per day.

Section 17-519 CONDITIONS OR PERMITS

(1) The City may grant a permit to connect to the municipal sewerage system reporting all requirements of this Article provided that the person:

(A) submit an application after the effective date of this Article on forms supplied by the Approving Authority;

(B) secure approval by the Approving Authority of plans and specifications for pretreatment facilities when required, and/or secured approval of the construction plans from the State Health Department and;

(C) has complied with all requirements for agreements or arrangements including, but not limited to, provisions for:

1. payment of charges;
2. installation and operation of pretreatment facilities; and
3. sampling and analysis to determine quantity and strength; and

(D) provides a sampling point subject to the provisions of this Article and approval of the Approving Authority.

(2) A person applying for a new discharge shall:

(A) meet all conditions of subsection (I) of this section; and

(B) secure a permit prior to discharging any waste.

Section 17-520 POWER TO ENTER PROPERTY

(1) The Superintendent and oilier duly authorized employees of the city bearing proper credentials and identification arc entitled to enter any

public or private property at any reasonable time for the purpose of enforcing this Article.

(2) Anyone acting under this authority shall observe [he establishments rules and regulations condemning safety, internal security, and fire protection.

(3) Except when caused by negligence or failure of the company to maintain safe conditions, the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company a growing out of the sampling operation.

(4) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a sewerage easement for the purposes of:

(A) inspection, observation, measurement samplings, or repair;

(B) maintenance of any portion of the sewerage system lying within the casements; and

(C) conducting any other authorized activity. All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

(5) No person acting under authority of this provision may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

Section 17-521 AUTHORITY TO DISCONNECT SERVICE

(1) The City may terminate water and wastewater disposal service and disconnect an individual, business, or industrial customer from the system when:

(A) acids or chemicals damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

(B) a governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse and it is found that the customer is delivering wastewater to the city's system.

Section 17-522 SEWER RATES.

The sewer rates to be charged shall be as set out in Chapter 18 herein.

ARTICLE 6

SOLID WASTE COLLECTION AND DISPOSAL

Section 17-601 CONTRACTOR

The City may contract with a contractor to provide for solid waste collection and disposal services and such contract shall apply in all respects.

CHAPTER 18. FEE SCHEDULE

Pursuant to Section 1-112 of this code and for purpose of providing a clear and concise listing of the fees and charges authorized by the provisions of this code in payment for licenses, permits and services performed in accordance with the regulations and controls upon which the licenses and permits are conditioned and to provide uniformity in the supervision and administration of the issuance of licenses and permits and the collection of the amounts prescribed, a schedule of fees and charges, or fee schedule, is hereby set forth in this Section. The heading gives the titles of the appropriate chapters and articles as applicable.

Code Section

Fee

Administration and Government

City Records

2-711 Search fee Actual cost to city

2-712 Prepayment of estimate fee

2-713 Copies of Article and other
public records

1. Twenty-five cents (\$.25) for all pages to be copied;
2. For certified copies, One Dollar (\$1.00) per copied page;
3. Any authorized gun dealer in the State of Oklahoma who requests a background investigation through the Cherokee Police Department in order to affect the sale of a handgun to any person shall pay a fee of \$10.00 per background investigation ¹

This Section shall not apply to the following so long as another fee has been established for same:

1. Complete copies of the city code of ordinances;

¹ PERMITTED BY STATE LAW

2. Copies of chapters or similar parts of this code which have been prepared in booklet form; or
3. Ordinances which have been prepared in booklet form.

If the request for copies of public records is:

1. Solely for commercial purposes; or
2. Clearly would cause excessive disruption of the public body's essential functions; then the following document search fees shall be charged to recover the direct cost of the document search:
 - a. Fourteen Dollars (\$14.00) per hour with a Seven Dollar (\$7.00) minimum; or
 - b. Twenty-two Dollars (\$22.00) per hour for computer searches, with an Eleven Dollar (\$11.00) minimum.

In no case shall a search fee be charged when the release of the documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully and competently performing their duties as public servants.

The city clerk shall post a copy of the fee schedule on the public bulletin board in the city hall and with the county clerk

ANIMALS

Dog and cat

4-121	Annual license	4.00
4-122	Lost tag	1.00

Wild, Exotic or Dangerous Animals

4-150	Permit or license	20.00
4-171	Quarantine of animal for observation at owner's expense	

BUILDING REGULATIONS AND CODES

5-101	Demolitions with each thirty-day renewal permit	\$0.00
5-106	Building permit - to be charged until building inspections unless conducted by State Fire Marshall Office in which caseno charge shall be made by the City:	\$25.00
5-108	Moving a building permit	\$5.00
5-112.2	Annual registration fee with registration to expire on June 30	\$20.00

Plumbing Code

5-203	Contractors' annual registration	\$10.00
	Journeyman and apprentices	\$10.00
5-204C	Plumbing	
	Permit inspection fee: residential	\$10.00
	commercial	\$10.00

Electrical Code

5-306	Contractors Registration (per contractor)	\$10.00
	Permit inspection fee residential	\$10.00
	commercial	\$10.00

Mechanical Code

5-403	Mechanical contractor Annual registration (unlimited)	\$10.00
	Mechanical contractor Annual registration (limited)	\$10.00
5-404	Mechanical inspection fee: residential	\$10.00
	Commercial	\$10.00

FAIR HOUSING

5-905	transcribed testimony cost to be paid by requesting party	
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Municipal Court

6-120	All offense	See bond schedule
6-126	Witness fee per day	5.00

		2021 Codification 101321
	Witness fee per mile	0.05
6-129	Court costs	30.00

HEALTH AND SANITATION

Weeds and Trash

8-105 Cleaning of weeds and trash or grass
cut or mowed; actual costs will be
assessed the owner

Dilapidated Building

8-503 Dismantling and removal; actual cost
will be assessed the owner

LICENSING AND BUSINESS REGULATIONS

Occupational Licenses Fees

9-101 Certain occupations
9-102 Separate licenses required

Solicitors, Itinerants Merchants, Transient Street Vendors and Coupon
Book Sellers

9-207 FEE.

The licensing fees for the following licensees shall be as
follows:

	Daily	Monthly	Annually
SOLICITORS/PEDDLERS	\$5.00	\$20.00	\$75.00
ITINERANT MERCHANTS/ TRANSIENT STREET VENDORS	\$5.00	\$20.00	\$75.00
COUPON BOOK SELLERS	\$5.00	\$20.00	\$75.00
SOLICITOR'S BUSINESS LICENSE	\$5.00	\$20.00	\$75.00
COUPON BOOK SELLER'S BUSINESS LICENSE	\$5.00	\$20.00	\$75.00

OFFENSES AND CRIMESOffenses Against the Public

10-704 Supervised public displays of fireworks permit

PARKS, RECREATION AND CEMETERYCemetery

11-211 Cemetery Fee Schedule

1. Opening and closing of adult graves -not to include cremations - Tuesday through Friday 450.00
 Additional charge if performed on weekends or Monday 600.00
2. Opening and closing of infant graves throughout the cemetery Tuesday through Friday 300.00
 Additional charge if performed on weekends or Monday 400.00
3. Opening and closing of cremation graves Tuesday through Friday 200.00
 Additional charge if performed on weekends or Monday 300.00
4. Price for all grave sites 450.00
5. Permit charge for setting monuments: 20.00
7. Permit charge for setting four (4) corner stones: 40.00
8. Disinterment charges:
 - a. Completed opening and closing to another part of cemetery 2 opening prices
 As per schedule
 - b. Opening and closing to be moved out of cemetery 2 opening prices
 as per schedule
 - c. Disinterment move at city request will be borne by city. An application for approval of the disinterment and removal of the bodily remains shall be first filed with, and approval obtained from the State Health Department
9. Servicemen - Veteran marker set free

10. Transfer ownership of a grave site - must be sold to City and purchased at original sale price
11. Cemetery Pavilion/Grave Site Services. The use of the Cemetery Pavilion shall be free. Grave site services shall be subject to any additional fee charged by the third-party service provider.
12. RV Park Fees and Charges

30 AMP SERVICE (UP TO 35') \$20 per night, \$450 per month

50 AMP SERVICE (UP TO 45') \$30 per night, \$750 per month

50 AMP SERVICE (OVER 45') \$40 per night, \$1000 per month

Swimming Pool Fees:

The following fees shall be charged for the use of the Municipal Pool:

A. Daily Fees:

Under age 12	1.00
18 years and older	2.00

Annual Fees:

Family Pass (Two adults, two children of same household)	100.00
Each additional child of the same household	10.00
Individual Pass	50.00

B. Private Use of the Pool:

The pool may be leased to private persons for parties upon the approval of the City Manager for \$40.00 plus payment for 2 lifeguards @ \$10.00 per hour.

PLANNING, ZONING AND DEVELOPMENT

Board of Adjustment

12-122	Notice of appeal fee; Cost of publishing notice and any other costs associated with the hearing	100.00
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Enforcement and Administration

12-307	Zoning clearance permit	No Fee
12-308	Building permit	25.00

Amendments

12-311	Re-zoning Application Fee	100.00
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Flood Damage Prevention

12-415	Development permit	100.00
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PUBLIC SAFETY

Fire Department and Service

13-211	Rate per call (with contract)	
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STREETS, SIDEWALKS AND PUBLIC WORKS

Excavating or Cutting Streets and Alleys

14-201	Permit fee for excavation of a road, street or alley: \$150.00 per hour with estimate made and paid with permit and reimbursement of any excess or payment of remainder due upon completion	
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14-205	Permit Fee for Curb Cut and/or Driveway Opening to a Streets	50.00
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TRAFFIC AND VEHICLES

Vehicle Equipment, Inspection

15-305	Width, height, length, weight or load which exceeds State Law permit	
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15-308	Golf Cart/UTV Fee	\$40.00
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Stopping, Standing and Parking Generally

15-709	Special permits for loading or unloading at curb	Up to \$25.00
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Impoundment of Vehicles

15-1303	Impoundment costs and storage charges to be paid prior to release	
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TRANSPORTATION

16-205 ANNUAL GROUND LEASE PAYMENTS FOR LOTS AT THE AIRPORT

The annual ground lease for privately owned hangars shall be \$100.00 per year.

16-206 RENTAL FEES FOR CITY HANGARS

2 North Hangars	60.00
8 South Hangars	60.00

UTILITIES

Billing and General Provisions

17-201 Utility Fees and billings in general

Section 17-413 Water Rates

A. Water Rates.

Without regard to the service period, all Consumers billed for water service mailed by the City of Cherokee after August 1, 2021, shall provide for payment of the following monthly rates and minimum charges:

For the first 3,000 gallons	\$47.47 (base rate) ¹
For over 3,000 to 4,000 gallons	\$4.00 per thousand gallons
For over 4,000 to 5,000 gallons	\$4.25 per thousand gallons
For that in excess of 5,000 gallons	\$4.50 per thousand gallons

Without regard to the service period, all Consumers billed for water service mailed by the City of Cherokee after January 1, 2022, shall provide for payment of the following monthly rates and minimum charges:

¹ The minimum Fee of \$47.47 is if the utility customer has a 5/8" meter. The following minimums shall apply if the customer's water meter is larger:

3/4" meter size	\$71.91
1" meter size	\$119.85
1.5" meter size	\$239.70
2" meter size	\$383.52
3" meter size	\$838.95
4" meter size	\$2397.00
6" meter size	\$2397.00

For the first 1,000 gallons	\$47.47 (base rate) ²
For over 1,000 to 2,000 gallons	\$3.50 per thousand gallons
over 2,000 to 3,000 gallons	\$3.75 per thousand gallons
over 3,000 to 4,000 gallons	\$4.00 per thousand gallons
over 4,000 to 5,000 gallons	\$3.75 per thousand gallons
that in excess of 5,000 gallons	\$4.25 per thousand gallons
excess of 5,000 gallons	\$4.50 per 1000 gallons

All new customers of water, sewer and trash shall make a deposit with the City Clerk in the amount of \$200.00 as a guarantee that services furnished to the consumer will be paid promptly when due, such deposit will be returned, after deduction for sums due the City, to the depositor when the person shall cease to be a customer.

Any person receiving water through a meter supplied by the City who desires to have the accuracy of same tested, may do so by making a deposit of Ten Dollars (\$10.00) with the cashier of the department. The superintendent will then make a proper test of such meter and if after proper test it is found to be incorrect more than two percent (2%) in favor of the city, the deposit of Ten Dollars (\$10.00) shall be returned to the consumer and correction made only for that month for which the bill was last rendered. If, however, the meter is found to be correct, then the Ten Dollars (\$10.00) shall become the property of the city and be paid to the credit of the water fund. In case of a meter failing to register, the monthly water rent due the city shall be determined by an average of the three (3) previous months that the meter registered. In all cases where the consumer's piping or plumbing is divided, thus necessitating the use of two (2) meters, each meter shall be handled and regarded as for separate and distinct consumers to each of which will apply the regular water rates and minimum charges until such plumbing or piping is so arranged as to permit the use of but one meter. Under no circumstances shall the consumption be added or "lumped" in order to reduce the net sum due the city.

Bulk water is \$0.02 per gallon for RO water. After August 1, 2021, the water tap fee shall be Fifteen Hundred Dollars

² The minimum fee of \$47.47 is if the customer has a 5/8" meter. The following shall apply if the customer's water meter is larger:

¾" meter size	\$71.91
1" meter size	\$119.85
1.5" meter size	\$239.70
2" meter size	\$383.52
3" meter size	\$838.95
4" meter size	\$2397.00
6" meter size	\$2397.00

(\$1,500.00), with the customer responsible to pay the cost of any road or street bore, as applicable.

III. SEWER USE RATES.

17-522 Sewer Rates.

A. Sewer Rates

Without regard to the service period, all customers billed for sewer service by the City after August 1, 2021, shall provide for payment of the following monthly rates and minimum charges:

USAGE	RATE
Base Rate to include 3,000 gallons	\$16.34 (minimum fee)
For over 3,000 to 4,000 gallons	\$3.50 per 1000 gallons
For over 4,000 to 5,000 gallons	\$3.75 per 1000 gallons
In excess of 5,000 gallons	44.00 per 1000 gallons

Without regard to the service period, all customers billed for sewer service by the City after January 1, 2022, shall provide for payment of the following monthly rates and minimum charges:

USAGE	RATE
Base Rate to include 1,000 gallons	\$16.34 (minimum fee)
For over 1,000 to 2,000 gallons	\$3.00 per 1000 gallons
For over 2,000 to 3,000 gallons	\$3.25 per 1000 gallons
For over 3,000 to 4,000 gallons	\$3.50 per 1000 gallons
For over 4,000 to 5,000 gallons	\$3.75 per 1000 gallons
In excess of 5,000 gallons	\$4.00 per 1000 gallons

After August 1, 2021, the sewer tap fee shall be Seven Hundred and Fifty Dollars (\$750.00) with the customer responsible to pay for any road or street bore, if applicable.

IV. SOLID WASTE COLLECTION AND DISPOSAL RATES.

17-601 SOLID WASTE COLLECTION AND DISPOSAL RATES

Without regard to the service period, all customers billed for solid waste collection and disposal services by the City after July 1 shall provide for payment of the following monthly charges:

Residential 1 polycart	\$19.78
Residential 2 polycart	\$27.69
Residential 3 polycart	\$36.91
Residential 4 polycart	\$46.15
Commercial 1 polycart	\$22.42
2 yd dumpster 1X weekly	\$50.10
2 yd dumpster 2X weekly	\$64.60
2 yd dumpster 3X weekly	\$105.48
4 yd dumpster 1X weekly	\$64.60
4 yd dumpster 3X weekly	\$129.30
Commercial 2 polycarts	\$31.65
2 - 2 yd dumpster 3X weekly	\$209.64
3 - 4 yd dumpster 3X weekly	\$387.63
2 - 2 yd dumpster 1X weekly	\$98.89
4-2 yd Dumpster 2X/Week	\$243.60
1-4 yd 3X weekly/1-2 yd 3X	\$234.68
1 residential polycart/1 2 yd 1 X	\$68.57
2-4 yd 2X weekly	\$203.04
1-4 yd 2X weekly	\$101.52
1 residential polycart/1 4 yd 1 X	\$83.06
1-2 yd Dumpster 1X/Week; 1 Res polycart	\$77.80
1-2 yd 1X weekly/ 3 res polycart	\$85.70
1-4 yd 1X weekly/ 4 res polycart	\$109.43
1-2 yd 2X weekly/ 1 res polycart	\$83.06
LANDMAN SPECIAL 2 YD	\$92.29
2 polycarts; 2 yd Dumpster 2/Week	\$50.10
2 yd 1X/Week	\$64.60
4 yd 1X/Week	\$64.60
2 yd 2X/Week	\$64.60
4 yd 3X/Week	\$129.20
4 yd 1X/Week; 2 yd 1X/Week	\$113.38
3 - 2 yd 3X/Week	\$148.99