

## PART 7

### FINANCE AND TAXATION

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## CHAPTER 1

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#### § 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

Funds of the city shall be deposited as required by law. The city treasurer shall deposit all public funds in his custody on a time deposit basis as authorized by law in depositories designated by the council. (Prior Code § 7-7 in part; Ord. No. 671, 8/24/10)

*State Law Reference:* Deposits by treasurers, designation of depositories: 11 O.S. § 10-118.

#### § 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. (Prior Code, § 7-7)

#### § 7-103 CONTRACTUAL SERVICES DEFINED FOR PURCHASING.

“Contractual services” for the purpose of this chapter shall mean services performed for the city by persons not in the employment of the city, and may include the use of equipment or the furnishing of commodities in connection with the services under express or implied contract. Contractual services shall include travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rents, printing out, binding, repairs, alterations and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the city; and other services performed by the city by persons not in the employment of the city.

§ 7-104            COMPETITIVE BIDDING.

Before the city manager makes any purchase of, or contract for supplies, materials, equipment or contractual services, except as otherwise provided below, he shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply same, a request for quotation, or invitation to bid, and specifications, to give them opportunity to bid; and/or publish notice of the proposed purchase in a newspaper of general circulation within the city. He shall favor a person, firm or corporation in the city when this can be done without additional cost to the city; but he shall submit requests for quotation to those outside the city when this may be necessary to secure bids or to create competitive conditions, or when he thinks that by so doing he can make a saving for the city; and shall purchase from them when he can make a saving for the city. All bids shall be sealed and shall be opened in public at a designated time and place. He may repeatedly reject all bids, and again may submit to the same or other persons, firms or corporations the request for quotation or invitation to bid, and/or again publish notice of the proposed purchase. He may purchase from the bidder whose bid is most advantageous to the city, considering price, quality, date of delivery and so on, and in case of a tie, may purchase from one of those tying, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the city.

*State Law Reference:* Purchases and sales by city manager, 11 O.S., § 10-116.

§ 7-105            WHEN COMPETITIVE BIDDING IS NOT REQUIRED.

The following may be purchased without giving an opportunity for competitive bidding:

- A.     Supplies, materials, equipment or contractual services whose cost does not exceed twelve thousand five hundred dollars (\$12,500.00) in a single transaction; and
  - 1.     Public improvements whose cost does not exceed fifty thousand dollars (\$50,000.00) in a single transaction.
- B.     Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever bought;
- C.     Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including government surplus;
- D.     Equipment to replace existing equipment which has become inoperable when the council declares the purchase an emergency;
- E.     Contractual services, including but not limited to natural gas, electricity, telephone service, purchased from a public utility at a price or rate determined by the State Corporation Commission or other governmental authority, or motor fuels or

lubricants;

- F. Supplies, materials, equipment or contractual services when purchased at a price not exceeding a price set therefor by the state purchasing agency or any other state agency hereafter authorized to regulate prices for things purchased by the state, whether such price is determined by a contract negotiated with a vendor or otherwise; and
- G. Contractual services of a professional nature, such as engineering, architectural and medical services unless competitive bidding is required by applicable law or regulations. (Ord. No. 512, 11/17/98; Ord. No. 589, 2/22/05; Ord. No. 671, 8/24/10)

§ 7-106            COUNCIL APPROVAL.

The city manager may contract for and purchase or issue purchase authorizations for:

- A. All supplies, materials and equipment for the offices, departments and agencies of the city government, and the city manager also may transfer to or between offices, departments and agencies or sell surplus or obsolete supplies, materials and equipment in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00); and
- B. All public construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same in any amount not to exceed fifty thousand dollars (\$50,000.00) without the prior approval of the city council, subject to any regulations which the council may prescribe. (Ord. No. 162, 11/20/79; Ord. No. 268, 5/7/85, as amended; Ord. No. 512, 9/15/98; Ord. No. 589, 2/22/05; Ord. No. 671, 8/24/10)

§ 7-107            SALES, COUNCIL TO DECLARE SURPLUS OR OBSOLETE, COMPETITIVE BIDDING.

No surplus or obsolete supplies, materials or equipment of a value of more than two thousand five hundred dollars (\$2,500.00) may be sold until the council shall have declared them obsolete or surplus. Before the city manager sells any surplus or obsolete supplies, materials or equipment, except as otherwise provided below, he shall advertise them for sale in a newspaper of general circulation in the city or give notice in such other manner as he deems necessary to adequately reach prospective buyers to give them opportunity to make necessary bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The city manager may repeatedly reject all bids and advertise or give notice again. He shall sell such supplies, materials or equipment to the highest responsible bidder. In case of a tie, if necessary, he shall cast lots to determine to whom to sell, or he may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders. (Ord. No. 162, 11/20/79; Ord. No. 671, 8/24/10)

§ 7-108            WHEN COMPETITIVE BIDDING IS NOT REQUIRED ON SALES.

The city manager may sell the following without giving an opportunity for competitive bidding:

- A. Surplus or obsolete supplies, materials or equipment whose total value does not exceed two thousand five hundred dollars (\$2,500.00) in a single transaction; and
- B. Supplies, materials or equipment when sold at a price at least as great as that paid by the city for the same. (Ord. No. 162, 11/20/79, as amended; Ord. No. 671, 8/24/10)

§ 7-109            COUNCIL AND OTHER OFFICERS; PURCHASES; CONTRACTS.

- A. No member of the city council may sell or furnish for a consideration any materials or supplies for use of the city; and any member of the council voting for, or consenting to, or being a party to, such contract or purchase is personally liable as provided by state law.
- B. The city council shall not make any contract with any of its members or in which any of its members shall be directly or indirectly interested, such contracts being prohibited by law.
- C. No officer of the city may become directly or indirectly interested individually in any sale, lease or contract which he is authorized to make, such being prohibited by law. (Prior Code, §7-8)

State Law Reference: Personal liability for contracts where councilmember is a party, 62 O.S. §§ 355-357.

§ 7-110            BUDGET AND APPROPRIATIONS.

- A. The city manager shall prepare a balanced budget annually as required by the city charter and submit to the city council for approval in accordance with state law.
- B. Appropriations for the city shall be made as provided by law.
- C. Unencumbered appropriation balances of items of less immediately urgent need, or any part thereof, may be transferred to other items of appropriation to meet more immediately urgent needs in the manner provided by law. (Prior Code, §§ 7-1, 7-2; Ord. No. 671, 8/24/10)

§ 7-111            FUNDING AND ACCOUNTING GENERALLY.

The revenues and other resources of the city shall be divided into funds as provided by law and accounted for as provided thereby. (Prior code, § 704 as amended)

§ 7-112            SINKING FUND, HANDLING, DEPOSIT, INVESTMENT.

- A. It is the duty of the officers of the city to handle, deposit, invest, and use the money in the

sinking fund of the city in the manner provided by law.

- B. The city treasurer shall deposit daily all uninvested sinking fund money in his hands in banks as provided by law. (Prior Code, § 7-5, as amended)

§ 7-113 PURCHASES, CLAIMS AND INVOICES, HOW MADE AND PROCESSED.

- A. The city council does hereby authorize and grant the city manager, or his written designee, to make necessary purchases as prescribed in this chapter and approve payment of any invoice submitted against the city for payment in the amount the city manager determines to be just and correct as follows:

1. In an amount not to exceed twelve thousand five hundred dollars and zero cents (\$12,500.00);
2. Regular periodic billings of any municipal utility or of any public utility whose rates are fixed by, and are subject to the approval of, the Oklahoma Corporation Commission or any other public regulatory body or board of any utility cooperative for services furnished by the utility to the city;
3. Payroll to include but not limited to:
  - a. Taxes including, but not limited to, withholding, social security or unemployment compensation taxes;
  - b. Retirement or pension fund payments or contributions which are payable pursuant to a resolution, ordinance, contract or other appropriate agreement which has been approved by the city council; and
  - c. Payments for insurance or related coverages, including, but not limited to, accident, health or life, workers' compensation or any other property, vehicle, marine, surety, liability or casualty coverages, which are payable under a valid contract, policy or other appropriate agreement which has been approved by the city council.
4. Contracts or agreements which have been approved by city council; and
5. Transfer of funds as per budget which has been approved by city council.

- B. The city manager shall establish an internal control structure adequate to provide reasonable assurance against the unauthorized or illegal payment of invoices. Such system of internal control shall include the following control procedures:

1. Proper authorization of transactions and activities;



2. Adequate segregation of duties;
  3. Adequate documents and records;
  4. Adequate safeguards over access to and use of assets and records; and
  5. Independent checks on performance.
- C. All checks must have two (2) signatures and be signed by the mayor or vice-mayor and counter signed by the city treasurer or deputy city treasurer or by the city clerk or his or her designee.
- D. A listing of the payments made under the above provision shall be provided to the city council at each regular meeting listing payee, purpose and amount of payment, and designating the unpaid balance of the invoice, if any.
- E. In the absence of such authorization, as provided above, the city council shall approve all claims. (Prior Code, § 7-10, as amended; Ord. No. 491, 8/5/97; Ord. No. 671, 8/24/10)

§ 7-114 WARRANTS, DISBURSEMENT OF FUNDS.

Warrants shall be issued and processed and funds of the city disbursed, only for legal purposes and in accordance with law. (Prior Code, § 7-11, as amended)

§ 7-115 BONDS, ISSUANCE AND SALE.

Bonds of the city shall be issued, sold, paid and handled in all respects as provided by law. (Prior Code, § 7-12, as amended)

§ 7-116 FINANCIAL BOOKS AND RECORDS, EXAMINATION AND AUDIT.

- A. The books of the city treasurer are subject to examination by the city council at all times, as provided by law. Likewise, the records of the city clerk and of all other officers and employees of the city are subject to inspection by the city council at all times.
- B. The city council shall designate a qualified public accountant to audit the financial records and transactions of the city treasurer, the city clerk and all other personnel of the city who keep financial records and make financial transactions, as of the end of every fiscal year at least; the accountant shall make such audit and shall report to the city council.
- C. Upon petition of a number of voters of the city equal at least to twenty-five percent (25%) of the number of people voting at the last general city election for the city office receiving the highest number of votes, the financial books and records of the city will be audited by the State Auditor and Inspector as provided by law. (Prior Code, § 7-13, as

amended)

*State Law Reference:* Annual audits required, filing, 11 O.S., § 17-105; audit by state auditor and inspector upon petition, 74 O.S. §§ 212 and 215.

§ 7-117            INSURANCE FOR PROPERTY, VEHICLES.

- A.     The city council may insure property of the city as authorized by law or council action. Any money received as a result of destruction, damages or loss of such insured property, shall be accounted for and used as provided by law.
  
- B.     The city council may purchase insurance to pay damage to persons sustaining injuries or damages to property as a result of negligent operation of vehicles, motorized equipment of the city, or any acts of the city as authorized by law. (Prior Code, §7-14, as amended)

## CHAPTER 2

### SALES TAX

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§ 7-223	Fraudulent returns.
§ 7-224	Records confidential.
§ 7-225	Amendments.
§ 7-226	Provisions cumulative.

#### § 7-201      CITATION AND CODIFICATION.

This chapter shall be known and may be cited as “City of Choctaw Sales Tax Ordinance.” (Prior Code, § 7-15)

State Law Reference: Authority to levy (sales) taxes for municipal purposes, 68 O.S. § 2701; State Sales Tax Code 68 O.S. § 1350 et seq.

Editorial Note: This chapter has been updated to reflect 1981 and 1984 state sales tax changes. Ord. No. 385, effective 9/1/89, levied a third one cent tax. Ord. No. 462, 1/17/95, levied a fourth one cent tax, effective from May 1, 1995, through April 30, 2000.

#### § 7-202      DEFINITIONS.

- A. Definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, § 1352 of Title 68 and § 576 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.
- B. The state sales tax code is specifically hereby amended as to the definition of “gross receipts” or “gross proceeds” as follows:
  - 1. The term “gross receipts” or “gross proceeds” means the total amount of consideration for the sale of tangible personal property and such services as are herein specifically provided for, whether the consideration is in money or otherwise, without any deduction therefrom on account of the costs of the property sold, labor service performed, interest paid, losses, or any expenses whatsoever;
  - 2. The term “gross proceeds” or “gross receipts” means the sales value of any goods, wares, merchandise, or property consumed or used in any business by any person, which has been purchased for resale, manufacturing, or further processing. It shall further include 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 and service occurs shall constitute the gross receipt from such transaction. (Prior Code, § 7-20, 7-30; Ord. No. 280, 6/18/85)

§ 7-203      TAX COLLECTOR DEFINED.

The term “tax collector” as used in this chapter 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 chapter. (Prior Code, § 7-29)

§ 7-204      CLASSIFICATION OF TAXPAYERS.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code. (Prior Code, § 7-26)

§ 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 chapter, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Prior Code, § 7-16)

§ 7-206      EFFECTIVE DATE.

- A. This chapter became effective after approval of a majority of the registered voters of the city voting on the ordinance in the manner prescribed by § 16-212 of Title 11 of the

Oklahoma Statutes.

- B. The fourth cent sales tax levied by Ordinance 462 is effective from May 1, 1995, for five (5) years, through April 30, 2000. (Prior Code, § 7-17; Ord. No. 462, 1/17/95)
- C. There is hereby imposed an excise tax of one-quarter of one percent (0.25%) (in addition to any and all other excise taxes now in force) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code. (Ord. No. 672, 9/28/10)

§ 7-207      PURPOSE OF REVENUES.

- A. It is hereby declared to be the purpose of this chapter to provide revenues for the support of the functions of the municipal government of the city, and any and all revenues derived hereunder may be expended by the governing body of the city for any purpose for which funds may be lawfully expended as authorized by the laws of the state.
- B. It is hereby declared to be the purpose of the revenues provided by the additional excise tax levied by Ordinance Number 385 to provide revenues for the purpose of general operation of the city, including but not limited to, fire and police protection, street maintenance and capital improvements for construction and financing of streets, water and sanitary sewer systems, including construction of sanitary sewer line and lift station for East Oklahoma County Vo-Tech and including construction of sanitary sewer line along NE 23<sup>rd</sup> Street to Henney Road. The proceeds of the additional excise tax shall be so utilized and shall not be otherwise expended or appropriated.
- C. It is hereby declared to be the purpose of the revenues provided by the additional one percent (1%) sales or excise tax levied by Ordinance 462 to provide revenues for the following public safety improvements, and to pay the principal of and interest on indebtedness incurred on behalf of the city for such improvements, if any, and for no other purpose:
  - 1. Lease purchase of two (2) fire truck pumpers;
  - 2. Construction and financing of one, one hundred thousand (100,000) gallon water tower to include complete Garber well and four (4) miles of twelve inch (12") water mains to serve the southeast quadrant of the city;
  - 3. Construction and financing of two (2) new fire stations as follows:
    - a. Replacement of fire station #1 to include one mile of twelve-inch water main in the vicinity of NE 23<sup>rd</sup> and Henney Road; and
    - b. New fire station in the vicinity of SE 29<sup>th</sup> and Indian Meridian to serve the southeast quadrant of the city;

4. Construction and financing of handicapped accessibility improvements to:
  - a. Ten (10) Acre Lake Park;
  - b. Optimist Park; and
  - c. Lloyd Williamson Park. (Prior Code, § 7-18; Ord. No. 385, 6/20/89; Ord. No. 462, 1/17/95)

D. It is hereby declared to be the purpose of Ordinance No. 672 to provide revenues to be used for the design, construction, reconstruction, equipping, operation, maintenance, repair, and related costs of park infrastructure and amenities, all for the use and benefit of the City of Choctaw, Oklahoma and any public trust having the city as beneficiary thereof and/or for payment of debt service in connection with obligations heretofore issued or to be issued to finance or refinance said park infrastructure expenditures and related costs; to be effective 4/01/11. (Ord. No. 672, 9/28/10)

§ 7-208      TAX RATE; SALES SUBJECT TO TAX.

There is hereby levied an excise tax of four and one-quarter percent (4.25%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code including but not exclusive of the following:

- A. Tangible personal property;
- B. Natural or artificial gas, electricity, ice, steam or any other utility or public service except water and those specifically exempt by this chapter;
- C. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, pullman car companies, airlines and all other means of transportation for hire.
- D. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
- E. Printing or printed matter of all typed, kinds and characters and the service of printing or over-printing, including the copying of information by mimeograph or multigraph or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information on magnetic tapes furnished by customers;
- F. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house or tourist camps;

- G. Service of furnishing storage or parking privileges by auto hotels and parking lots;
- H. Selling, renting or otherwise furnishing computer hardware or software or coding sheets, cards or magnetic tapes on which prewritten programs have been coded, punched or otherwise recorded;
- I. Food, 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;
- J. Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;
- K. Dues or fees to clubs including free or complimentary dues or fees which shall have the 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;
- L. Sales of tickets, fees or other charges made 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 shall have the value equivalent to the charge that would have otherwise been made;
- M. Charges made for the privilege of entering or engaging in any kind of activity, when no admission is charged spectators, such as tennis, racket ball or hand ball courts;
- N. Charges made for the privilege of using items for amusement, sports, entertainment or recreational activity such as trampolines or golf carts;
- O. The rental of equipment for amusement, sports, entertainment or other recreational activities, such as bowling shoes, skates, golf carts or other sports and athletic equipment;
- P. The gross receipts from sales through 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;
- Q. 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. Provided 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 of

gross proceeds;

- R. Any licensing agreement, rental, lease or other device or instrument whereby rights to possess or exhibit motion pictures or filmed performances or rights to receive images, pictures or performances for telecast by any method are transferred. Provided, persons regularly engaged in the business of exhibiting motion pictures for which the sale of tickets or admissions is taxed under this article shall not be deemed to be consumers or users in respect to the licensing or exhibiting of copyrighted motion picture features, shorts, cartoons and scenes from copyrighted features and the sale or licensing of such films shall not be considered a sale within the purview of this chapter.
- S. Flowers, plants, shrubs, trees and other floral items, whether or not same was 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. Provided, all orders taken outside this state for delivery within this state shall not be subject to the tax levied by this chapter;
- T. Tangible personal property sold to persons, peddlers, solicitors or other salesmen, for resale where there is likelihood that this state will lose tax revenue due to the difficulty of enforcing this chapter because of:
  - 1. The operation of the business;
  - 2. The nature of the business;
  - 3. The turnover of independent contractors;
  - 4. The lack of place of business in which to display a permit or keep records;
  - 5. Lack of adequate records;
  - 6. The persons are minors or transients;
  - 7. The persons are engaged in service businesses; or
  - 8. Any other reasonable reason.
- U. 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 such real estate is intended for resale as real property are hereby declared to be sales to consumers or users and taxable; and
- V. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, are hereby declared to be sales to consumers or users and taxable. (Prior Code, § 7-19; Ord. No. 133, 2/1/77; Ord. No.



§ 7-209      EXEMPTIONS; SALES SUBJECT TO OTHER TAX.

There is hereby specifically exempted from the tax levied by this chapter the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code inclusive, but not exclusive of, and derived from the:

- A. Sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax levied by state law has been paid;
- B. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied by state law has been paid;
- C. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under state law. This exemption shall not apply when such products are sold to 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; and
- D. Sale of aircraft on which the tax levied pursuant to §§ 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid. The provisions of this Paragraph 4 shall not become operative until July 1, 1984. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-210      EXEMPTIONS; GOVERNMENTAL AND NONPROFIT ENTITIES.

There are hereby specifically exempted from the tax levied by this chapter:

- A. 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 the 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 chapter, except as hereinafter provided;
- B. Sales of property to agents appointed or contracted with by agencies or instrumentalities of the United States Government if ownership and possession of such property transfers immediately to the United States Government;
- C. 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;
- D. 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;

- E. 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;
- F. 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 similar business;
- G. 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 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;
- H. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls shall be exempt from sales tax;
- I. Sale of tangible property or services to any county, municipality, public school district, the institutions of the Oklahoma system of higher education and the Grand River Dam 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 subdivision 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 the sales tax involved or incarcerated for not more than sixty (60) days or both;
- J. 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 § 501(c)(3) of the Internal Revenue Code, 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 act shall be a misdemeanor as set forth in Paragraph I of this section; and

- K. 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 § 501(c)(3) of the Internal Revenue Code. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-211      EXEMPTIONS; GENERAL.

There are hereby specifically exempted from the tax levied by this chapter:

- A. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
- B. 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 taxicab;
- C. Carrier sales of newspapers and periodicals made directly to consumers. Other sales of newspapers and periodical where any individual transaction does not exceed seventy-five cents (\$0.75). A carrier is a person who regularly delivers newspapers or periodicals to subscribers on an assigned route;
- D. 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 this chapter. 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 salesmen who do not have an established place of business and a sales tax permit;
- E. 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;

- F. 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 he 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;
- G. Sales of medicine or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicine or drugs. This exemption shall not apply to proprietary or patent medicines as defined by § 353.1 of Title 59 of the Oklahoma Statutes;
- H. Transfers of title or possession of empty, partially filled, or filled returnable oil 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; and
- I. Nothing herein shall be construed as limiting or prohibiting the city from levying and collecting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or commercial purposes. Any sales tax levied by the city 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. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-212      EXEMPTIONS; AGRICULTURE.

There are hereby specifically exempted from the tax levied by this chapter:

- A. 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:
  - 1. Farm, orchard or garden products;
  - 2. Dairy products sold by a dairyman or farmer who owns all the cows from which the dairy products offered for sale are produced;
  - 3. Livestock sold by the producer at a special livestock sales; or
  - 4. The provisions of this paragraph shall not be construed as exempting sales by florists, nurserymen or chicken hatcheries, or sales of dairy products by any other

business except as set out herein;

- B. Livestock, including cattle, horses, mules or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;
- C. 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;
- D. 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:
  - 1. 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;
  - 2. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules and other domestic or draft animals used directly in the producing and marketing of agricultural products;
  - 3. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;
  - 4. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;
  - 5. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and
  - 6. 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 Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;
- E. 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:
  - 1. Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is so engaged in farming or ranching and that the material purchased will be used only in such business;

2. 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. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is engaged in the business of applying such materials to lands owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which the materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;
3. 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 chapter, and the 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;
4. 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;
5. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this act, 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, bacterial 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; and
6. This exemption 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. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the contract 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, and, upon violation and conviction for a second offense, the Oklahoma Tax

Commission shall revoke the vendor's sales tax permit; and

- F. 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. Each purchaser of farm machinery, repair parts thereto or fuel must certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is engaged in farming or ranching and that the farm machinery, repair parts thereto or fuel will be used only in farming or ranching. The exemption provided for herein shall not apply to motor vehicles. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. 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, and, upon violation and conviction for a second offense, the Oklahoma Tax Commission shall revoke the vendor's sales tax permit. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-213      EXEMPTIONS; MANUFACTURERS.

There are hereby specifically exempted from the tax levied by this chapter:

- A. Goods, wares, merchandise and property purchased for the purpose of being used or consumed in the process of manufacturing, compounding, processing, assembling or preparing for sale a finished article and such goods, wares, merchandise or property become integral parts of the manufactured, compounded, processed, assembled or prepared products or are consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
- B. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by state law;
- C. Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in Oklahoma. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under this chapter. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
- D. 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. 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. And, 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; or

- E. Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-214      EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS.

There are hereby specifically exempted from the tax levied in this chapter:

- A. The transfer of tangible personal property, as follows:
1. From one corporation to another corporation pursuant to a reorganization. As used in this subparagraph the term “reorganization” means a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
  2. In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;
  3. To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the property prior to the transfer;
  4. To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer; or
  5. From a partnership to the members thereof when made in kind in the dissolution of such partnership; and
- B. Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the state sales or



use tax has previously been paid on such tangible personal property. (Prior Code, §§ 7-20 to 7-22 in part)

§ 7-215      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. (Prior Code, § 7-23)

§ 7-216      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 the city sales tax and the state sales tax. (Prior Code, § 7-24)

§ 7-217      TAX CONSTITUTES DEBT.

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. (Prior Code, § 7-25)

§ 7-218      VENDOR'S DUTY TO COLLECT TAX; PENALTIES.

- A. The tax levied hereunder shall be paid by the consumer or user to the vendor. It shall be 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, and by 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, is deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in § 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 refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor. (Prior Code, § 7-27)

§ 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 taxes. (Prior Code, § 7-28)

§ 7-220 INTEREST AND PENALTIES; DELINQUENCY.

§ 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. (Prior Code, § 7-31)

§ 7-221 WAIVER OF INTEREST AND PENALTIES.

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 the administration of the state sales tax provided in § 220 or Title 68 of the Oklahoma Statutes. To accomplish the purposes of this section, the applicable provisions of § 220 of Title 68 are hereby adopted by reference and made a part of this chapter. (Prior Code, § 7-32)

§ 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 § 227 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this section, the applicable provisions of § 227 of Title 68 are hereby adopted by reference and made a part of this chapter. (Prior Code, § 7-33)

§ 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 or 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 and imprisonment as provided in § 1-108 of this code. (Prior Code, § 7-34)

§ 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, § 205 of Title 68 of the Oklahoma Statutes, 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. (Prior Code, § 7-35)

§ 7-225      AMENDMENTS.

The people of the city, by their approval of the sales tax ordinance, hereby authorize the mayor and city council, 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. (Prior Code, § 7-36)

§ 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. (Prior Code, § 7-37)

## CHAPTER 3

### UTILITY FEE

- § 7-301 Gross receipts fee levied in lieu of franchise.
- § 7-302 Payment due; purpose of revenue.
- § 7-303 Refusal to pay tax.
- § 7-304 Tax constitutes prior lien.

#### § 7-301 GROSS RECEIPTS FEE LEVIED IN LIEU OF FRANCHISE.

There is hereby levied and assessed an annual fee of two percent (2%) upon the gross receipts of sales of gas by the Oklahoma Natural Gas Company to residential and commercial users in the city. This fee shall be in lieu of any other franchise, license, occupation or excise tax as provided by state law. (Prior Code, § 7-40)

*State Law Reference:* Authority to levy tax on utilities, 68 O.S. §§ 2601 et seq.

#### § 7-302 PAYMENT DUE, PURPOSE OF REVENUE.

The tax levied herein shall be payable quarterly and shall be placed in the general revenue fund of the city. (Prior Code, § 7-41)

#### § 7-303 REFUSAL TO PAY TAX.

If the Oklahoma Natural Gas Company fails or refuses to pay the tax herein levied, the company shall be regarded as a trespasser and may be ousted from the city, and, in addition, an action may be maintained against the company for the amount of the tax, and all expenses of collecting it, including reasonable attorney's fees. (Prior Code, § 7-42)

#### § 7-304 TAX CONSTITUTES PRIOR LIEN.

The tax herein imposed shall constitute a first and prior lien on all the assets of the Oklahoma Natural Gas company located within the city. (Prior Code, § 7-43)

## CHAPTER 4

### TELEPHONE EXCHANGE FEE

- § 7-401                    Inspection fee and service charge.  
§ 7-402                    Fee in lieu of certain other charges.

§ 7-401                    INSPECTION FEE AND SERVICE CHARGE.

There is hereby levied an annual inspection fee and service charge upon each and every person, firm and 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 regulation 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 second day of January of each year to cover the preceding calendar year, and shall be paid into and appropriated and expended from the general revenue fund of the city. (Prior Code, § 7-38)

*State Law Reference:* Authority to levy tax on utilities, 68 O.S. §§ 2601 et seq.

§ 7-402                    FEE IN LIEU OF CERTAIN OTHER CHARGES.

During the 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, license, privilege and permit fees or taxes or assessments except ad valorem taxes; provided, however, that 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 call systems of the city. (Prior Code, § 7-39)

## CHAPTER 5

### USE TAX

- § 7-501 Excise tax on storage, use or other consumption of intangible personal property levied.
- § 7-502 Exemptions.
- § 7-503 Time when due, returns, payments.
- § 7-504 Tax constitutes debt.
- § 7-505 Collection of tax by retailer or vendor.
- § 7-506 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state, permits.
- § 7-507 Revoking permit.
- § 7-508 Remunerative deductions allowed vendors or retailers of other states.
- § 7-509 Interest and penalties, delinquency.
- § 7-510 Waiver of interest and penalties.
- § 7-511 Erroneous payments; claim for refund.
- § 7-512 Fraudulent returns.
- § 7-513 Records confidential.
- § 7-514 Provisions cumulative.
- § 7-515 Provisions severable.
- § 7-516 Definitions.
- § 7-517 Tax collector defined.
- § 7-518 Classification of taxpayers.
- § 7-519 Subsisting state permits.
- § 7-520 Purposes of revenues.

§ 7-501      EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF INTANGIBLE, PERSONAL PROPERTY LEVIED.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the city tangible, personal property purchased or brought into this city, an excise tax on the storage, use or other consuming within the city of such property at the rate of four and one-quarter percent (4.25%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the city, tangible, personal property purchased or brought into the city. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the city and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the city, but which is stored in the city pending shipment outside the city or which is temporarily retained in the city 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 city had been levied on the sale of such goods or services. (Ord. No. 439, 8/17/93; Ord. No. 469, 4/18/95; Ord. No. 672,

9/28/10)

*Ed Note:* Ord. No. 439, 8/17/93, levied the first three-cent use tax. Ord. 469 levied an additional one-cent tax for a period May 1, 1995 through April 30, 2000; Ord. No. 672, 9/28/10 levied an additional one-quarter percent (0.25%) effective April 1, 2011.

*State Law Reference:* 68 O.S. §§ 1354.15 et seq.

§ 7-502      EXEMPTIONS

The provisions of this chapter shall not apply:

- A. In respect to the sale of an article of tangible, personal property brought into the city by a nonresident individual visiting this city for his or her personal use or enjoyment while within the city;
- B. In respect to the use of tangible, personal property purchased for resale before being used;
- C. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City of Choctaw Use Tax, has been paid by the person using such tangible, personal property in the city, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the City of Choctaw Use Tax, the provision of this chapter shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the City of Choctaw Use Tax, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and in the city;
- D. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the city, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the city. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the sales tax code of the city. The term “manufacturing plants” means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
- E. In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the city;

- F. In respect to the use of any article of tangible, personal property brought into the city by an individual with intent to become a resident of this city where such personal property is for such individual's personal use or enjoyment;
- G. In respect to the use of any article of tangible, personal property used or to be used by commercial airlines or railroads; and
- H. In respect to livestock purchased outside Oklahoma and brought into this city for feeding or breeding purposes, and which is later resold. (Ord. No. 439, 8/17/93)

§ 7-503            TIME WHEN DUE, RETURNS, PAYMENT.

The tax levied by this chapter 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. (Ord. No. 439, 8/17/93)

§ 7-504            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. (Ord. No. 439, 8/17/93)

§ 7-505            COLLECTION OF TAX BY RETAILER OR VENDOR.

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this city shall, at the time of making such sales, collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefore 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 his agents operating in this city and location of any and all distribution or sales houses or offices or other places of business in the city. (Ord. No. 439, 8/17/93)

§ 7-506            COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING A 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 city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it 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 city. 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 city. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this city 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 city sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. No. 439, 8/17/93)

§ 7-507      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 chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in § 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use 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 the 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 chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission. (Ord. No. 439, 8/17/93)

§ 7-508      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 the code for the collection of state use taxes. (Ord. No. 439, 8/17/93)

§ 7-509      INTEREST AND PENALTIES, DELINQUENCY.

§ 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 the amounts as herein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. 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 chapter 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 chapter. (Ord. No. 439, 8/17/93)

§ 7-510      WAIVER OF INTEREST AND PENALTIES.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's

failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in § 227 of title 68 of the Oklahoma Statutes, and, to accomplish the purposes of this section, the applicable provisions of § 227 are hereby adopted by reference and made a part of this chapter. (Ord. No. 439, 8/17/93)

§ 7-511            ERRONEOUS PAYMENTS, CLAIM FOR REFUND.

Refund of erroneous payment of the city 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 § 227 of Title 68 of the Oklahoma Statutes, and, to accomplish the purposes of this section, the applicable provisions of § 227 are hereby adopted by reference and made a part of this chapter. (Ord. No. 439, 8/17/93)

§ 7-512            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 punished as provided in § 1-108 of this code. Each day of noncompliance with this chapter shall constitute a separate offense. (Ord. No. 439, 8/17/93)

§ 7-513            RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared, and to protect the same the provisions of § 205 of Title 68 of the Oklahoma Statutes, 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 city use tax as is herein set forth in full. (Ord. No. 439, 8/17/93)

§ 7-514            PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances. (Ord. No. 439, 8/17/93)

§ 7-515            PROVISIONS SEVERABLE.

The provisions hereof are hereby declared to be severable, and, if any section, paragraph, sentence or clause of this chapter is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof. (Ord. No. 439, 8/17/93)

§ 7-516            DEFINITIONS.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, § 1401 of Title 68 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter. In addition thereto, the following words and terms shall be defined as follows:

- A. “City” means the City of Choctaw, Oklahoma; and
- B. “Transaction” means sale. (Ord. No. 439, 8/17/93)

§ 7-517      TAX COLLECTOR DEFINED.

The term “tax collector”, as used herein, means the department of the municipal government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied. (Ord. No. 439, 8/17/93)

§ 7-518      CLASSIFICATION OF TAXPAYERS.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code. (Ord. No. 439, 8/17/93)

§ 7-519      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 chapter hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Ord. No. 439, 8/17/93)

§ 7-520      PURPOSES OF REVENUES.

It is hereby declared to be the purpose of this chapter 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 purposes for which funds may be lawfully expended as authorized. (Ord. No. 439, 8/17/93)

CHAPTER 6

HOTEL/MOTEL TAX

- § 7-601      Citation and codification.
- § 7-602      Definitions.
- § 7-603      Tax rate.
- § 7-604      Exemptions.
- § 7-605      Tax to be separately designated on bills.
- § 7-606      Operator’s duties.
- § 7-607      Bond required.

§ 7-608	Assessment and determination of tax.
§ 7-609	Refunds.
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§ 7-620	Severability.
§ 7-621	Effective date and no termination date.

§ 7-601                      CITATION AND CODIFICATION.

This ordinance shall be known and cited as the City of Choctaw Hotel/Motel Tax Ordinance. (Ord. No. 680, 11/22/11)

§ 7-602                      DEFINITIONS.

As used in this Ordinance:

- A. “City” shall mean the City of Choctaw, Oklahoma.
- B. “Hotel/Motel” shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations, and in which two or more rooms are used for the accommodation of such occupant whether such rooms are in one or several structures. The term shall include hotel/motels, apartment hotel/motels, motels, tourist courts, lodging houses, ins, rooming houses, 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 shall not include hospitals, sanitariums or nursing homes.
- C. “Occupancy” shall mean the use or possession, or the right to the use or possession of any room or rooms in a hotel/motel, or the right to use the possession of the furnishings or the services and accommodations accompanying the use and possession of the room or rooms.
- D. “Occupant” shall mean the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel/motel under any lease, concession, permit, right of access, license to use, or other agreement.

- E. “Operator” shall mean any person operating a hotel/motel within the city, included, but not limited to, the owner, proprietor, manager, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel/motel.
- F. “Permanent resident” shall mean an occupant who has resided in a room in a hotel/motel for not less than 30 consecutive days, with such status as a permanent resident to end when any break in such residency occurs.
- G. “Person” shall mean any individual, corporation, company, partnership, voluntary association, firm, club, society, organization or any other entity of whatever kind or nature.
- H. “Places or assembly” means a room or space which is capable of being occupied by 75 or more persons and which is used for educational or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiard, bowling and table tennis rooms; halls; rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar use and occupancy.
- I. “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.
- J. “Return” shall mean any report filed or required to be filed as herein provided.
- K. “Room” shall mean any room or suite of rooms of any kind in any part or portion of a hotel/motel which is available for or let out for use or possessed for any purpose other than as a “place of assembly”.
- L. “Tax” shall mean the tax levied pursuant to this Ordinance. (Ord. No. 680, 11/22/11)

§ 7-603

TAX RATE.

There is hereby levied an excise tax of five percent (5.0%) (in addition to any and all other excise taxes now in force) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel/motel in this City. Rooms provided free of charge, through barter, trade or any other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with “sales value” to mean the price at which the room would be rented to the operator’s best customer in the ordinary course of business). (Ord. No. 680, 11/22/11)

EXEMPTIONS.

- A. Occupancy. The following shall be exempt from the tax levied in this Ordinance:
1. A permanent resident, provided, any person who qualifies as a permanent resident shall be entitled to the exemption retroactive;
  2. The United States Government or any agency or division thereof when paid directly by the United States government;
  3. The State of Oklahoma or any political subdivision thereof when paid directly by the State of Oklahoma or any political subdivision;
  4. Any public school or state-accredited private school when paid directly by the school, provided that its primary purposes in not carrying on a business for profit; and
  5. Any church when paid directly by the church, provided that its primary purposes in not carrying on a business for profit.
- B. Certificate of exemption required. Every hotel/motel claiming exemptions shall submit a monthly exemption form, as provided by the city manager, with each monthly room tax return. This exemption form shall indicate beginning and ending occupancy dates, number of rooms, number of nights, room(s) occupied, room rate, exempted amount, the name of the occupant seeking exemption, the exempt organization with which they are affiliated, reason for the exemption, and any other information required by the city manager. Every exemption form shall be signed by the hotel/motel manager or authorized agent, so that the signature shall serve as an acknowledgement that all information contained on the exemption form is true and correct. Upon submission of these forms to the City, the city manager shall make a final determination as to the validity of all claimed exemptions. Should the city manager determine that a claimed exemption is not valid, the hotel/motel shall be assessed the five percent (5.0%) hotel/motel tax plus applicable interest and penalties. The hotel/motel claiming such exemption is liable for payment of the hotel/motel tax. For purposes of this section, an exemption will not be validated by the city manager unless the exemption is claimed for the month in which it accrues. For good cause show, the city manager may grant an extension for claiming an exemption. (Ord. No. 680, 11/22/11)

TAX TO BE SEPARATELY DESIGNATED ON BILLS.

The operation shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charge or payment of rent for occupancy issued or delivered by the operator. In the absence of a certificate of exemption as specified above, it shall be presumed that the rent on all occupancies is taxable, and the burden of proof shall be on the operator. (Ord. No. 680, 11/22/11)

- A. Operator responsible for collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax which shall be held in trust by the operator until paid to the city. The operator shall join the city as a party to any action brought by the operator to enforce collection of the tax.
- B. 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 thereon in such form as the city manager may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the city manager, or a duly authorized agent or employee of the city, and shall be preserved for a period of three years.
- C. Returns.
  - 1. Every operator shall file with the city manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this Ordinance. Such return shall be filed within the first fifteen (15) days after the end of each such month.
  - 2. Each operator shall further file with the city manager a copy of their completed Oklahoma State Sales Tax Form within ten (10) days after the end of each month following the effective date of this Ordinance.
  - 3. The form of return shall be prescribed by the city manager and shall contain such information as may be deemed necessary for the proper administration of this Ordinance. The city manager may require amended returns to be filed within ten (10) days after notice and to contain the information specified in the notice.
- D. Payment of tax. At the time of filing a return of occupancy and of rents, each operator shall pay to the city treasurer the taxes imposed by this Ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. 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 city treasurer 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.
- E. Delinquent taxes. All taxes no paid within fifteen (15) calendar days following the last day of the period shall be delinquent.
- F. Interest and penalties on unpaid taxes. If any tax levied by this Ordinance 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 percent per month on the unpaid balance from the date of delinquency. If any tax levied by this Ordinance is not paid by the last

calendar day of the month due, the operator responsible and liable for such tax shall pay a penalty on such unpaid tax at the rate of ten percent per month on the unpaid balance from the date of delinquency to a maximum of fifty (50%) percent of the tax. (Ord. No. 680, 11/22/11)

§ 7-607                      BOND REQUIRED.

Where the city manager believes that any Operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the city manager deems it necessary in order to protect revenues under this Ordinance may require such operator to file with the city a bond issued by a surety company authorized to transact business in the state in such amount as the city manager may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the city manager determines that an operator is to file such bond, the city manager shall give notice to such operator specifying the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five days the operator shall request in writing a hearing before the city council, at which time the necessary propriety and amount of the bond shall be determined by the city council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, a cash or securities escrow, in an amount and under terms approved by the city manager, may be deposited with the city manager, who may at any time after five days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale. (Ord. No. 680, 11/22/11)

§ 7-608                      ASSESSMENT AND DETERMINATION OF TAX.

If a return required by this Ordinance is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the city manager 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. Such assessment shall finally and irrevocably fix and determine the tax:

- A. Unless the person against whom it is assessed shall apply in writing to the city council for a hearing within sixty (60) days after the city gives notice of such assessment; or
- B. Unless the city manager decides to reassess the same.

After such hearing, the city council shall give written notice of its determination within thirty (30) days to the person against whom the tax is assessed and such determination shall be final. (Ord. No. 680, 11/22/11)

§ 7-609                      REFUNDS.



- A. Procedure. The city manager shall direct the refund or credit of any tax erroneously, illegally or unconstitutionally collected if written application to the city manager for such refund is 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 of the city manager, subject to existing limits on the authority of the city manager as to amount. The city manager, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person who has collected and paid such tax to the city treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.
  
- B. Determination and hearing. Upon application for a refund the city manager may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination as to the refund, the city manager shall give written notice thereof to the applicant. Such determination shall be final unless the applicant, within thirty (30) days after such notice, shall apply in writing to the city council for a hearing. After such hearing the city council shall give written notice of its decision to the applicant. (Ord. No. 680, 11/22/11)

§ 7-610                      NOTICES.

Notices provided for under this Ordinance shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the city to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by Section 7-613 herein. (Ord. No. 680, 11/22/11)

§ 7-611                      REMEDIES EXCLUSIVE.

The remedies provided in this Ordinance shall be the exclusive remedies available to any person for the review of tax liability imposed by this Ordinance. (Ord. No. 680, 11/22/11)

§ 7-612                      GENERAL POWERS OF THE CITY MANAGER.

In addition to all other powers granted to the city manager, the city manager is hereby authorized:

- A. To make, adopt and amend rules and regulations appropriate to the execution of this Ordinance and for the purposes hereof;
  
- B. To extend for cause shown the time for filing any return for a period not exceeding thirty (30) days; and for cause shown to waive, remit, or reduce penalties or interest;
  
- C. To delegate functions hereunder to authorized designees for the city;

- D. To assess, reassess, determine, revise and readjust the amount of taxes (but not the tax rate) imposed by this Ordinance;
- E. To prescribe methods for determining the taxable and nontaxable rents;
- F. To administer oaths and take affidavits concerning any matter or proceeding under this Ordinance; and
- G. To subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance and the enforcement of this Ordinance and to examine them in relation thereto. (Ord. No. 680, 11/22/11)

§ 7-613                      CERTIFICATES OF REGISTRATION.

Every operator shall file with the city manager a certificate of registration in a form prescribed by the city manager within ten days after the effective date of this Ordinance, or in the case of operators commencing business or opening new hotel/motels after such effective date, within three days after such commencement or opening. The city manager 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/motel. Each certificate or duplicate shall state the hotel/motel 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 will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable, nontransferable, and shall be surrendered immediately to the city manager upon the cessation of business at the hotel/motel named, or upon its sale or transfer. (Ord. No. 680, 11/22/11)

§ 7-614                      USE OF FUNDS.

All taxes collected pursuant to provisions of this Ordinance shall be placed in a special revenue fund of the city, shall be budgeted and appropriated annually by the city, and used exclusively for the purpose of encouraging, promoting, and fostering parks and recreation to include landscaping and public art for the city. (Ord. No. 680, 11/22/11)

§ 7-615                      RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records file concerning the administration of the hotel/motel tax is legislatively supported and declared and, in order to protect the same, the provisions of Title 68 Oklahoma Statutes Supp. 2009, Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, as hereby adopted by reference and made fully effective and applicable to the administration of this Ordinance as if here set forth. (Ord. No. 680, 11/22/11)

§ 7-616                      CRIMINAL PENALTIES.

- A. The willful intent or refusal of any taxpayer to make 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 Ordinance, shall each be a class A offense.
- B. The failure by an operator to file a security bond as required, to register or to display the certificate of registration, or to separately state the tax on the bill or to collect such tax from the occupant, shall each be a class B offense. (Ord. No. 680, 11/22/11)

§ 7-617                      CIVIL REMEDIES.

- A. Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this Ordinance as herein provided, the mayor may authorize the director of finance to file notice of liens on behalf of the City of Choctaw against the real estate upon which the hotel/motel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to Title 68 Oklahoma Statutes Supp. 2009, Section 2701 and Section 2704.
- B. The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68 Oklahoma Statutes Supp. 2009, Section 2704.
- C. The city manager shall notify the person owing the tax by personal service or by certified mail that the City of Choctaw will file such liens if any delinquent taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.
- D. The city manager may also authorize the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent taxes, penalties and/or interest. (Ord. No. 680, 11/22/11)

§ 7-618                      AMENDMENTS.

The people of the City of Choctaw, 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, 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. (Ord. No. 680, 11/22/11)

§ 7-619                      PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances. (Ord. No. 680, 11/22/11)

§ 7-620                      SEVERABILITY.

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. (Ord. No. 680, 11/22/11)

§ 7-621                      EFFECTIVE DATE AND NO TERMINATION DATE.

The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after April 1, 2012, subject to approval by a majority of the qualified electors of the City 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 termination date. (Ord. No. 680, 11/22/11)