

Chapter 7

CITY FINANCE AND BUSINESS

Article 1. Sales Tax Ordinance

Sec. 7-1-1. Revenue and Taxation.

The Sales Tax and Use Tax Ordinance(s) as herein adopted and incorporated into the code of Ordinances of the City of Chickasha are as authorized by Title 68 O.S. 1991, Section 2701-2706.

Sec. 7-1-2. Citation and codification.

This ordinance shall be known and may be cited as "City of Chickasha Capital Improvement Sales Tax Ordinance of 2001" and is hereinafter referred to as "Ordinance". (*Ord. No. 2001-07, 09/17/2001*).

Sec. 7-1-3. 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 purposes of this ordinance, hereby ratified, confirmed, and adopted in lieu of any requirements for an additional city permit for the same purpose. (*Ord. No. 2001-07, 09/17/2001*).

Sec. 7-1-4. Effective dates; time limitation of tax.

This article shall become and be effective as follows:

- (1) The two percent (2%) sales tax levied by Ordinance 1137 shall be effective on or after the first day of the first month following the approval of Ordinance 1137, by a majority of the registered voters of the City of Chickasha, Oklahoma, voting on the same in the manner prescribed by the provisions of Title 11 O.S., Sec. 16-101 and all laws complimentary or amendatory thereto.
- (2) The one percent (1%) sales tax levied by Ordinance 1671 shall become and be effective on or after February 1, 1984, subject to approval of a majority of the registered voters of the city voting on the same in the manner provided by law.
- (3) The three-fourths of one percent (3/4 of 1%) levied by ordinance 93-24 shall be effective on or after February 1, 1994, and shall remain in effect for a period of ten (10) years.
- (4) The three-fourths of one percent (3/4 of 1%) levied by ordinance 2001-07 shall be effective on or after February 1, 2004, and the current sales tax amount will be extended for a period of ten (10) years so said sales tax will not terminate until January 31, 2014. (*Ord. No. 2001-07, 09/17/2001*).

Sec. 7-1-5. Purposes of revenues.

The revenues provided the City by the sales tax shall be for the following declared purposes:

- (1) The revenues for the first sales tax levied by Ordinance 1137 shall be for the purpose of providing revenues for the support of the functions of the municipal government of the City of Chickasha, Oklahoma;
- (2) The revenues from the one percent (1%) sales tax levied by Ordinance 1671 shall be to provide revenues, which shall be transferred to the Chickasha Municipal Authority, for the purpose of the support of the operation and maintenance of all facilities and functions in the Authority, or to transfer such revenues to the appropriate fund of the Chickasha Municipal Authority to be used to pay the principal and interest requirements on any bonds issued by the Chickasha Municipal Authority on behalf of the city, or for such revenues to be used for any and all necessary purposes of the Chickasha Municipal Authority.
- (3) The revenue from the three-fourths of one percent (3/4 of 1%) sales tax levied by Ordinance 93-24 shall be used for the repair, replacement, or improvement of the water, sewer, street, and drainage systems in the City of Chickasha.

(4) The revenue from the three-fourth of one percent (3/4 of 1%) sales tax levied by Ord. No. 2001-07 shall be to provide revenues for the repair, replacement or improvement of the water and sewer system, the repair, replacement or improvement of streets and drainage and the repair, replacement, improvement, construction and building of parks and recreational facilities in the City of Chickasha. *(Ord. No. 2001-07, 09/17/2001).*

Sec. 7-1-6. Tax rates sales subject to tax.

There is hereby levied an excise tax of three and three-fourths percent (3 3/4%) upon the gross proceeds or gross receipts derived from all sales taxable under the Sales Tax Law of Oklahoma. *(68 O.S. 1991 Sec. 1354.) (Ord. No. 2001-07, 09/17/2001).*

Sec. 7-1-7. Exemptions.

There is hereby specifically exempted from the tax levied by this ordinance the gross receipts or gross proceeds exempted from the Sales Tax Law of Oklahoma. Also, there is hereby specifically exempted from the tax levied herein the transfer of tangible personal property exempted from the Oklahoma State Tax Code. *(68 O.S. § 1350, et. Seq.) (Ord. No. 2001-07, 09/17/2001).*

Sec. 7-1-8. 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 Sales Tax Law of the State of Oklahoma. *(Ord. No. 2001-07, 09/17/2001).*

Sec. 7-1-9. Payment of tax; brackets.

The tax herein levied shall be paid to the tax collector at the time in the form and manner provided for payment of state sales tax under the Sales Tax Law of Oklahoma.

Sec. 7-1-10. 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. 2001-07, 09/17/2001).*

Sec. 7-1-11. Classification of taxpayers.

For the purpose of this ordinance the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code. *(Ord. No. 2001-07, 09/17/2001).*

Sec. 7-1-12. Vendor's duty to collect tax.

- (A) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this city to collect from the consumer or user, the full amount of tax levied by this ordinance, or an amount equal as nearly as possible or practicable to the average equivalent thereof. *(Ord. No. 2001-07, 09/17/2001).*
- (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. *(Ord. No. 2001-07, 09/17/2001).*
- (C) A vendor, as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied hereof, or willfully or intentionally fails, neglects or refuses to comply with the provisions of this Chapter 7, or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax levied herein, or

makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined an amount not to exceed the maximum fine allowed by law for non-jury trials and court costs and/or imprisonment not to exceed 30 days. Provided that sales through vending machines may be at a stated price, which price includes state and any municipal sales tax. (Ord. No. 2004-03, 01/2-0/2004.)

Sec. 7-1-13. 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 required by the State Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for collection of state sales taxes.

Sec. 7-1-14. Tax collector defined.

The term "tax collector" as used herein means the department of the city 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.

Sec. 7-1-15. Amendments.

The people of Chickasha by their approval of this ordinance at the election hereinabove provided, hereby authorize the city council 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 shall not be changed without approval of the qualified electors of the city as provided by law.

Sec. 7-1-16. Provisions cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of city ordinances.

Sec. 7-1-17. Severability.

The provisions of this article 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.

Sec. 7-1-18. Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68 O.S. 1991, Sec. 1352, are hereby adopted by reference and made a part of the Sales Tax Ordinance of the City of Chickasha, Oklahoma.

Sec. 7-1-19. Interest and penalties; delinquency.

Title 68 O.S. 1991, Sec. 217 is hereby adopted and made a part of this Ordinance, 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 said ordinance. Provided that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by said ordinance shall cause such tax to be delinquent. In addition, if delinquency continues for a period of five (5) days the taxpayer shall forfeit his/her claim to any discount allowed under said ordinance.

Sec. 7-1-20. 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 said

waiver or remittance as applied in the administration of the state sales tax provided in 68 O.S. 1991, Sec. 220; and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this ordinance.

Sec. 7-1-21. Erroneous payments; claim for refund.

Refund of erroneous payment of the city sales 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 sales tax as set forth in 68 O.S. 1991, Sec. 227, and to accomplish the purposes of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this ordinance.

Sec. 7-1-22. Fraudulent returns.

In addition to all civil penalties provided by this Chapter 7, 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 Chapter 7 shall be guilty of a misdemeanor, and upon conviction thereof the taxpayer shall be fined an amount not to exceed the maximum fine allowed by law for non-jury trials and court costs and/or imprisonment not to exceed 30 days. (*Ord. No. 2004-03, 01/20/2004.*)

Sec. 7-1-23. 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 under the provisions of Title 68 O.S. 1991, § 205 of the uniform tax procedure, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if herein set forth in full.

Article 2. Use Tax Ordinance

Sec. 7-2-1. Effective date.

This ordinance shall be come effective on and after the 27th day of June 1991.

Sec. 7-2-2. Excise Tax on storage, use or other consumption of tangible, personal property levied.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on the storage, use or other consuming within the municipality of such property at the municipal sales tax rate existing and as may be hereafter amended, on the purchase price of such property. Such tax shall be paid by every person storing, using, or otherwise consuming within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; provided, that tax levied herein shall not be levied against tangible, personal property intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services. (*Ord. No. 2006-001, 01/17/2006*)

Sec. 7-2-3. Purposes of revenues.

It is hereby declared to be the purpose of this ordinance to provide revenues for the support of the functions of the municipal government of the municipality, and any and all revenues

derived hereunder may be expended by the governing body of the municipality for any purpose for which funds may be lawfully expended as authorized.

Sec. 7-2-4. Exemptions.

There is hereby specifically exempted from the tax levied by this ordinance the gross receipts or gross proceeds exempted from the Use Tax Law of Oklahoma (68 O.S. 1980 Sec. 1404).

Sec. 7-2-5. Time when due - returns - payment.

The tax levied by this ordinance 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.

Sec. 7-2-6. 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.

Sec. 7-2-7. Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and without the state of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this municipality shall at the time making such sales collect the use tax levied by this Ordinance 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/her agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this City.

Sec. 7-2-8. Collection of tax by retailer or vendor not maintaining a place of business within state of 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 make sales of tangible personal property for use in this municipality and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this municipality. Such retailer or vendor 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/her knowledge for use within this municipality. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipality sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

Sec. 7-2-9. 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 Ordinance or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission. The Tax Commission may, upon notice and hearing as provided for in 68 O.S. 1991, Section 1408, 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 said corporation's

license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under the Ordinance, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax commission.

Sec. 7-2-10. Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of State Use Taxes.

Sec. 7-2-11. Interest and penalties - delinquency.

Section 217 of Title 68 O.S. 1991 is hereby adopted and made a part of this Ordinance, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Ordinance. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Ordinance 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/her claim to any discount allowed under this Ordinance.

Sec. 7-2-12. 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 municipality tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. 1991, Section 227, and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Ordinance.

Sec. 7-2-13. Erroneous payment - claim for refund.

Refund of erroneous payment of the municipality Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. 1981, Section 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Ordinance.

Sec. 7-2-14. Fraudulent returns.

In addition to all civil penalties provided by this Chapter 7, 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 7 shall be guilty of an offense, and upon conviction thereof the offending taxpayer shall be fined an amount not to exceed the maximum fine allowed by law for non-jury trials plus court costs and/or imprisonment not to exceed 30 days. Each day of noncompliance shall constitute a separate offense. (Ord. No. 2004-03, 01/2-0/2004.)

Sec. 7-2-15. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the municipality Use Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. 1991, Section 205, of the uniform tax procedure, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipality Use Tax as it is herein set forth in full.

Sec. 7-2-16. Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the municipality ordinances.

Sec. 7-2-17. Provisions severable.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Ordinance 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.

Sec. 7-2-18. Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, Section 1401, 68 O.S. 1991, are hereby adopted by reference and made a part of this Ordinance. In addition, thereto, the following words and terms shall be defined as follows:

- (1) "City/Town" shall mean the City of Chickasha, Oklahoma.
- (2) "Transaction" shall mean sale.
- (3) "Tax Collector defined" the term "tax collector" as used herein means the department of the municipality 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.
- (4) "Classification of taxpayers" For the purpose of this Ordinance, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code.
- (5) "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 Ordinance hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipality permit for the same purpose.

Article 3. Special Cash Funds and Insurance

Sec. 7-3-1. Insurance cash fund.

- (A) The city clerk and city treasurer are hereby authorized to establish a special cash fund known as the "Insurance Cash Fund" which shall be carried as a separate bank account on the books of the City of Chickasha.
- (B) The cash fund shall serve as a depository for all monies and receipts for insurance settlement to the city of all types.
- (C) All repairs for damages to city property through accident or neglect by other party shall be paid from this special cash fund.
- (D) Also, the city retains the option to make payment to repair damages caused by accident or neglect if monies for the damages are uncollectible.
- (E) Payment of all claims to the Insurance Cash Fund shall be carried out through normal city claim procedures.

Article 4. Purchasing

Sec. 7-4-1. General requirements.

The City of Chickasha shall conform to and abide by the Statutes of the State of Oklahoma, Title 62, as amended, and the Chickasha City Charter as amended January 11, 1977.

Sec. 7-4-2. Purchasing limitation; emergency, etc.

- (A) Purchasing officers of the City of Chickasha are hereby authorized to spend funds on a single purchase order not to exceed three thousand five hundred

dollars (\$3,500.00) and any expenditure in excess of that amount must be by open bid before the Chickasha City Council. *(Refer to City Charter Article 14, Section 3, approved 11-5-1996).*

- (B) As provided by the city charter, the city council may declare an emergency in extraordinary circumstances to make expenditures exceeding three thousand five hundred dollars (\$3,500.00), without a bid. *(Refer to City Charter Article 14, Section 3, approved 11-5-1996).*
- (C) There shall be no split claims.

Sec. 7-4-3. Encumbering officer.

- (A) The city clerk of the City of Chickasha shall serve as an Encumbering officer of the City of Chickasha and in his/her absence; the city treasurer of the City of Chickasha shall serve as an Encumbering officer.
- (B) Encumbering officer shall be responsible for certifying that any purchase order does not exceed the appropriation in the amount that the purchase order is to be charged and shall encumber funds on the records of the City of Chickasha that the purchase orders are charged.

Sec. 7-4-4. Purchasing procedures.

The city manager is hereby authorized to establish and modify purchasing policies and procedures to implement purchasing activities for the City of Chickasha subject to approval of the Chickasha City Council and consistent with State Statutes and City Charter.

Sec. 7-4-5. Small purchases.

- (A) All purchases, including small purchases, shall be made by consecutive preprinted numbered purchase orders, however, purchase orders may be accumulated by one (1) vendor during any thirty (30) day period and a group of purchase orders from a single vendor may be paid by a single check.
- (B) Small purchases not exceeding \$50.00 may be accumulated on a single purchase order. Such purchases shall be submitted for payment no later than one (1) month after the close of the month within which the purchase or purchases were made.

Sec. 7-4-6. Affidavits.

- (A) Affidavits and noncollusion statements shall be required on competitive bid and on claims submitted for payment pursuant to contract for goods or services.
- (B) Affidavits are also required for invoices for payment to architects, contractors, engineers, or suppliers of material if the invoice is one thousand dollars (\$1,000.00) or more.

Sec. 7-4-7. Purchase order procedure.

The procedure for issuing purchase orders shall be as follows:

- (1) Purchasing officer issues a purchase order containing the amount or estimated amount of the purchase.
- (2) Encumbering officer encumbers the amounts, certifies appropriations are available to pay the encumbrance and maintains a copy of the purchase order.
- (3) Purchasing officer keeps the original purchase order, maintains a file copy and furnishes one (1) copy to the vendor and holds the original purchase order for receipt of invoice.
- (4) Vendor submits itemized invoice with supporting materials to the original purchase order and approves purchase order for payment.

(5) The city clerk submits purchase orders and a claims list to the finance committee, which shall consist of four (4) members. At least two (2) members of the finance committee shall review and initial the claims list and may review each individual purchase order as the committee deems necessary.

(6) The city clerk shall submit monthly a purchase order list to the city council for approval and no purchase order shall be paid for unless the item is submitted on the claim list or unless the item has received specific approval for payment by the city council previously.

(7) The city council shall consider the purchase order as a claim for payment and a claim form shall not be required.

Article 5. Telephone Exchange Charge

Sec. 7-5-1. Charge levied.

From and after the effective date of this article 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 of Chickasha, Oklahoma, 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 of Chickasha 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 said telephone company in the City of Chickasha. The inspection fee and charge shall be due and payable to the City of Chickasha on or before the first day of May of each year, commencing with the 1st day of May, 1938, and shall be paid into and appropriated and expended from the general revenue fund of said city.

Sec. 7-5-2. To be in lieu of other charges, etc.

During continued substantial compliance with the terms of this article by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege and permit fees or taxes or assessment except ad valorem taxes; provided, however, that it is not intended to extinguish or abrogate any existing arrangements whereby the said city is permitted to use underground conduit, duct space or pole contact of said company for the fire alarm and/or police call systems of said city.

Article 6. 9-1-1 Service Fee

Sec. 7-6-1. Short Title.

This article shall be known and may be cited as the "Nine-One-One Emergency Number Ordinance".

Sec. 7-6-2. Purpose.

It is the purpose of the Nine-One-One Emergency Number Ordinance to establish the number nine-one-one (911) as the primary emergency telephone number for use throughout the city in order to expedite the response of police, fire, medical rescue and other emergency services to any person calling the telephone number nine-one-one (911). The city council finds and declares that:

(1) It is in the public interest to shorten the time required for a citizen to request and receive emergency aid.

(2) Numerous different emergency telephone numbers currently exist through the city.

(3) Provisions of a single, primary three-digit emergency number through which emergency service can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public safety efforts by making it less difficult to quickly notify public safety personnel.

Sec. 7-6-3. Definitions.

As used in this article, unless the context requires otherwise:

- (1) “Emergency telephone service” means a telephone system utilizing a three-digit number, nine-one-one (911) for reporting to the appropriate public agency providing law enforcement, fire, medical or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergency to the appropriate emergency services and personnel.
- (2) “Emergency telephone fee” means a fee to finance the operation of emergency telephone service.
- (3) “City” means the City of Chickasha, Oklahoma.
- (4) “Governing body” means the city council of the City of Chickasha, Oklahoma.
- (5) “Local exchange telephone company” means any company providing exchange telephone services to any service user in this city.
- (6) “Person” means any individual, firm, partnership, co-partnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, state, any political subdivision of the state, state agency, department, commission, board, bureau or any other service user.
- (7) “Public agency” means any city, town, county, municipal corporation, public district or public authority located within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency, medical or other emergency services.
- (8) “Service user” means any person who is provided exchange telephone service in this city.
- (9) “Tariff rate” means the rate or rates billed by local exchange telephone company stated in tariffs applicable for such company, as approved by the Oklahoma Corporation Commission, which represents the recurring charges of such local exchange telephone company for exchange telephone service or its equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.
- (10) “Primary provider” means Southwestern Bell Telephone Company, which is designated as the local exchange telephone company to primarily provide the service for the City’s Nine-One-One (911) emergency telephone system. (Ord. No. 97-21, 10-20-97)

Sec. 7-6-4. Emergency telephone service and tax.

- (A) The city hereby provides for the operation of an emergency telephone service within the city and hereby imposes an emergency telephone fee for such service in all areas within the city, for which emergency telephone service has been contracted. The governing body hereby imposes such fee in an amount not to exceed five percent (5%) during the first year of the fee and not to exceed three percent (3%) in any year thereafter of the tariff rate in areas within the city for which emergency telephone service has been contracted. The exact rate of the fee to be imposed for each calendar year shall be established by the governing body as provided for by Section 7-7-5 of this article. The fee hereby imposed shall be for a period of three (3) years after which the governing body may renew the levy of such fee for no longer than three (3) years at a time. This article shall take effect sixty (60) days after its publication.
- (B) The proceeds of the fee shall be utilized to pay for the operation of emergency telephone service as specified in this article and may be collected at any time subsequent to execution of a contract with the provider of such service at the discretion of the governing body. Collection of such fee shall not begin prior to contracting for the emergency telephone service.
- (C) The emergency telephone fee shall be imposed only upon the amount received from the tariff for exchange telephone service or its equivalent within the city.

No such fee shall be imposed upon more than one hundred (100) exchange access lines or their equivalent per person per location.

- (D) Every billed service user shall be liable for any fee imposed pursuant to this article until it has been paid to the local exchange telephone company.
- (E) The duty to collect any fee imposed pursuant to the authority of this article from a service use shall commence with the execution of a contract for the emergency telephone service. Fees imposed pursuant to the authority of the article and that are required to be collected by the local exchange telephone company shall be added to and may be stated separately in the billings to the service user.
- (F) The local exchange telephone company shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this article. The local exchange telephone company shall annually provide the governing body with a list of amounts uncollected along with the names and addresses of those service users, which carry a balance that can be determined by the local exchange telephone company to be nonpayment of any fee imposed pursuant to the authority of this article.
- (G) Any fee imposed pursuant to the authority provided by this article shall be collected insofar as practicable at the same time as and along with the charges for exchange telephone service in accordance with the regular billing practice of the local exchange telephone service. The tariff rates determined or stated in the billing of the local exchange telephone company shall be presumed to be correct if such charges were made in accordance with the business practices of the local exchange telephone company. The presumption may be rebutted by evidence, which establishes that an incorrect tariff rate was charged.

Sec. 7-6-5. Rate of emergency telephone fee for calendar year.

The rate of the emergency telephone fee for each calendar year to be established as provided for by Section 7-6-6 of this article shall be set by separate resolution of the governing body.

Sec. 7-6-6. Collection of emergency fee - establishment of rate of fee.

- (A) The fee imposed pursuant to authority of this article and the amounts required to be collected are due monthly. The amount of fee collected in one month by the local exchange telephone company shall be remitted to the governing body no later than thirty (30) days after the close of the month in which such fees were collected. On or before the last day of each month, a return for the preceding month shall be filed with the governing body in such form, as the governing body and local telephone company required to file the return shall agree. The local exchange telephone company required to file the return shall deliver the return, together with a remittance of the amount of the fee payable to the city treasurer for deposit into a special fund. The local exchange telephone company shall maintain records of the amount of any fee collected in accordance with the provisions of this article. Such records shall be maintained for a period of one year from the time the fee is collected.
- (B) From every remittance to the governing body made on or before the date when the same becomes due, the local exchange telephone company required to remit the same shall be entitled to deduct and retain, as an administrative fee, an amount not to exceed three percent (3%) thereof.

- (C) At least once each calendar year, the governing body shall establish a fee rate not to exceed the amount authorized by the provisions of this article that, together with any surplus revenues, will provide sufficient revenues to fund the expenditures authorized by this article. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such rate each year no later than September 1 and shall fix the new rate to take effect commencing with the first billing period of each service user on or following the next January 1.

Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate and it shall, at least ninety (90) days before such new rate will become effective; notify by certified mail every local exchange telephone company providing emergency telephone service at areas within the jurisdiction of the governing body. The governing body may at its own expense require an annual audit of the books and records of the local exchange telephone company concerning the collection and remittance of the fee authorized by this article.

Sec. 7-6-6-1. Nine-One-One Voice Over Internet Protocol (VOIP) Emergency Service Fee.

The voters and/or governing body of the City of Chickasha has approved the acquisition and operation of an emergency telephone service, together with the levy on customers utilizing dial tone telephony service through Interconnected Voice Over Internet Protocol is authorized by the Nine-One-One Voice Over Internet Protocol (VOIP) Emergency Service Act, Oklahoma Statutes Section 2851 of Title 63. *(Amended Ord. No. 2006-29, 11/06/2006.)*

A 9-1-1 service fee is hereby adopted and imposed by the City Council of the City of Chickasha upon Interconnected Voice Over Internet Protocol telephony service customers whose businesses or residences are located within the City limits of the City of Chickasha, at the rate of fifty-cents (\$.50) per month for each VOIP service user, pursuant to the Title 63, O.S. (2006), Section 2851 et.seq. *(Amended Ord. No. 2006-29, 11/06/2006.)*

All VOIP carriers having customers within the City of Chickasha shall provide an annual census of customers to the City of Chickasha no later than sixty (60) days after the first day of each calendar year. *(Amended Ord. No. 2006-29, 11/06/2006.)*

Sec. 7-6-7. False alarm, complaint or information, violation, penalty.

No person shall call the number nine-one-one (911) for the purpose of making a false alarm or complaint or reporting false information which could result in the dispatch of emergency services from any public agency as defined in this article. Any person violating the provisions of this section, upon conviction, shall be guilty of an offense, punishable by a fine not to exceed the maximum amount allowed by law for non-jury trials, plus costs. *(Ord. No. 2003-05, 05/19/2003.)*

Sec. 7-6-8. Primary Provider.

Southwestern Bell Telephone Company is hereby designated as the primary provider for the City of Chickasha's Nine-One-One (911) emergency telephone service system. The City of Chickasha shall have no obligation to establish or maintain any additional trunk lines to accommodate additional local exchange telephone companies. Should any other local exchange telephone companies begin providing services to any service user in the City of Chickasha that local exchange telephone company shall be required to use the existing trunk lines being used by Southwestern Bell Telephone Company. It shall be the duty and responsibility of new local exchange telephone companies to contract with Southwestern Bell Telephone Company for the use of those trunk lines to provide Nine-One-One (911) service to new local exchange telephone companies' customers. *(Ord. No. 97-21, 10-20-97)*

Sec. 7-6-9. Amendments.

The provisions of this article may be amended as the governing body deems necessary for the purpose of improving emergency services or administration or for the purpose of bringing the article into conformance with amendments made by the state legislature to the Nine-One-One Emergency Number Act. (Ord. No. 97-21, 10-20-97)

Article 7. Hotel Tax

Sec. 7-7-1. Citation.

This Article shall be known and cited as the "City of Chickasha Hotel Tax." (Ord. No. 97-17, 08/18/1997.)

Sec. 7-7-2. Definitions.

- (A) As used in this Article, the following terms shall have the meanings ascribed to them in this Article.
- (1) Clerk shall mean the City Clerk of the City of Chickasha.
 - (2) Hotel shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations in which five (5) or more rooms are used for the accommodation of such guests whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, bed and breakfast establishments, trailer houses, trailer motels, dormitory space, where bed space is rented to individuals or groups, apartments not occupied by "permanent residents", and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration. The term shall not include hospitals, sanitariums, or nursing homes.
 - (3) Occupancy shall mean the use or possession, or the right to the use or possession of any room or rooms in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.
 - (4) Occupant shall mean a person, who, for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.
 - (5) Operator shall mean any person operating a hotel in this City, included, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.
 - (6) Permanent Resident shall mean any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.
 - (7) 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 deductions there from whatsoever.
 - (8) Return shall mean any return filed or required to be filed as herein provided.
 - (9) Room shall mean any room or rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is capable of being occupied by thirty-five (35) or more persons and which is used for educational, recreational, or amusement purposes and shall include:
 - (a) Dance halls;
 - (b) Cabarets;
 - (c) Night clubs;
 - (d) Restaurants;
 - (3) Any room or space for public or private banquets, feasts, socials, card parties or weddings;
 - (f) Lodge and meeting halls or rooms;
 - (g) Skating rinks;

- (h) Gymnasiums;
 - (i) Swimming pools;
 - (j) Billiard, bowling and table tennis rooms;
 - (k) Halls or rooms used for public or private catering purposes;
 - (l) Funeral parlors;
 - (m) Markets;
 - (n) Recreational rooms;
 - (o) Concert halls; and
 - (p) Broadcasting studios;
- and all other places of similar type of occupancy.

(10) Tax means the tax levied pursuant to this Article. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-3. Tax Rate.

There is hereby levied and assessed an excise tax of five percent (5%) in addition to all other excise taxes levied and assessed upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this City. The terms and provisions of the Oklahoma tax statutes, where applicable and not in conflict with the terms of this Article, are incorporated herein by reference thereto. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-4. Tax Addition to all Other Excise Taxes.

The excise tax levied pursuant to the provisions of this Article is in addition to any and all other excise taxes levied or assessed by the City or any other taxing authority. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-5. Exemptions.

- (A) The following shall be exempt from the tax levied in this Article:
- (1) Permanent residents;
 - (2) The United States Government or any agency or division thereof;
 - (3) The State of Oklahoma or any political subdivision thereof; and
 - (4) Any organization, corporation or association organized and operated exclusively for religious, charitable, philanthropic or educational purposes, provided that its primary purpose is not carrying on a trade or business for profit. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-6. Certificate of Exemption Required.

Anyone claiming to be exempt from the tax must obtain a certification from the clerk that the organization, association or corporation with which he is affiliated is exempt from the tax. Prior to issuing such a certificate, the clerk shall require a certification from the organization, association or corporation that the occupant is its agent, representative or employee and that his occupancy of the room is required in connection with the affairs of the organization, association, or corporation. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-7. Operator Responsible for Collection.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-8. 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 clerk may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the clerk, or a duly authorized agent or employee of the City, and shall be presented for a period of three (3) years except that the clerk may consent to their destruction within that period or may require that they be kept longer. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-9. Returns.

- (A) Every operator shall file with the clerk a return of occupancy and of rents and of the taxes payable on a monthly basis. The return shall be filed no later than the tenth calendar day of each month for the occupancy, rents and taxes payable for the preceding month from and after the effective date of this Article.
- (B) The clerk may permit or require returns to be made by shorter or longer periods and upon such dates as the clerk may specify. The form of return shall be prescribed by the clerk and shall contain such information as the clerk may deem necessary for the proper administration of this Article. The clerk may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-10. Payment of Tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the clerk the taxes imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this Article. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the clerk 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. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-11. Delinquent Taxes.

The tax levied by this Article shall be due and payable at the time of the filing of the returns provided for in this Article. All taxes not paid within five (5) days from the time they become due shall be delinquent. If taxes are delinquent for more than thirty (30) days, City utility services for water, sewer, and refuse collection for the hotel shall be terminated until the operator pays all past due taxes and interest. Upon full payment of delinquent taxes and interest, and upon filing a bond if a bond is required pursuant to Section 7-7-13, City utility services shall be restored for the hotel as provided in the City Code. *(Ord. No. 97-17, 08/18/1997.) (Amended Ord. No. 2008-11, 03/03/2008).*

Sec. 7-7-12. Interest on Delinquent Taxes.

If any tax levied by this Article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance from the date of delinquency. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-13. Bond Required.

- (A) If an operator has been delinquent in the payment of the required tax for thirty (30) days more than three (3) times, or if the clerk has reason to believe that any operator is about to cease business, leave the state, or remove or dissipate assets, if or for any other similar reason the clerk deems it necessary to protect the revenues collected under this Article, the operator shall be required to file with the City a bond in the amount of \$15,000.00 issued by a surety company approved by the City and authorized to transact business in this state. *(Ord. No. 2008-11, 03/03/2008).*
- (B) In the event the clerk determines that an operator is required to file a bond, the clerk shall give notice to the operator that the \$15,000.00 bond must be filed within five (5) business days of receipt of the notice. *(Ord. No. 2008-11, 03/03/2008).*
- (C) Within five (5) business days of receipt of the notice, the operator shall have the right to file a written request for a hearing before the City Council, at which hearing the necessity of the bond shall be determined by the City Council. Such

determination shall be final and operator shall comply within five (5) business days of the City Council's decision. (*Ord. No. 2008-11, 03/03/2008*).

- (D) In lieu of a bond, an irrevocable letter of credit approved by the clerk, or a cash bond may be deposited with the clerk. The clerk may at any time after giving five (5) days notice to the operator, make demand upon the bond or letter of credit or apply the cash bond deposited to any tax, penalties or interest due. (*Ord. No. 2008-11, 03/03/2008*).
- (E) If the operator fails to provide the required bond, the City utility services for water, sewer and refuse collection for the hotel shall be terminated until the bond is provided. (*Ord. No. 2008-11, 03/03/2008*).

Sec. 7-7-14. Assessment and Determination of Tax.

- (A) If a return required by this Article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the clerk 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, estimated percentage of occupancy, or other factors.
- (B) 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, unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such assessment, shall apply in writing to the City Council for a hearing, or unless the clerk, on his/her own initiative, shall reassess the same. After such hearing the City Council shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final. (*Ord. No. 97-17, 08/18/1997.*)
- (C) If an operator is delinquent in payment of tax three (3) or more times, or if the returns filed appear to be incorrect, the City shall have the right to conduct an audit of the hotel's records. If the audit discloses that the taxes were underpaid by the amount of ten percent (10.00%) or more during the period of time included in the audit, the operator shall be liable to the City for reimbursement of all costs and fees incurred by the City in connection with the audit, including but not limited to the accounting fees for the city's auditor. (*Ord. No. 2008-11, 03/03/2008*).

Sec. 7-7-15. Refunds.

- (A) The clerk shall refund or credit any tax erroneously collected if written application to the clerk for such refund shall be made within two (2) years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the clerk. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by the person who has collected and paid such tax to the clerk providing that the application is made within two (2) years of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount of which the application for the refund is made. The clerk, in lieu of any refund required to be made, may allow credit therefore on payments due from the applicant.

- (B) Upon application for a refund, the clerk may receive evidence with respect thereof and make such investigation as he/she deems necessary. After making a determination as to the refund, the clerk shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within ninety (90) days after such notice, shall apply in writing to the City Council for a hearing. After such hearing the City Council shall give written notice of its decision to the applicant. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-16. Notices.

Notices provided for under this Article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail to the last known address of the operator. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-17. Remedies Exclusive.

The remedies provided in this Article shall be exclusive remedies available to any person for the review of tax liability imposed by this Article. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-18. General Powers of the Clerk.

- (A) In addition to all other powers granted to the clerk, the clerk is hereby authorized and empowered:
- (1) To make, adopt, and amend rules and regulations appropriate to the carrying out of this Article for the purposes thereof,
 - (2) To extend, for cause shown, the time for filing any return for a period not exceeding sixty (60) days; and, for cause shown, to waive, remit or reduce penalties or interest.
 - (3) To delegate his functions hereunder to an assistant or other employee or employees of the City;
 - (4) To assess, reassess, determine, revise, and readjust the taxes imposed by this Article, but not the tax rate; and
 - (5) To prescribe methods for determining the taxable and nontaxable rents. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-19. Certificates of Registration.

Every operator shall file with the clerk a certificate of registration in a form prescribed by the clerk within ten (10) days after the effective date of this Article, or in the case of operator's commencing business or opening new hotels after such effective date, within three (3) days after such commencement or opening. The clerk shall, within five (5) days after such registration, issue, without charge, to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the clerk upon the cessation of business at the hotel named or upon its sale or transfer. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-20. Discount.

In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a two percent (2%) discount shall be allowed upon all taxes paid prior to the time they become delinquent. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-21. Use of Funds Collected.

All taxes collected pursuant to provisions of this Article shall be placed in the general fund of the City, shall be budgeted and appropriated annually by the City, and used exclusively for the purpose of encouraging, promoting, and fostering economic and industrial development, and

projects related thereto; or to pay debt service with respect to the financing of any project relating thereto, with ninety percent (90%) of said tax revenues to be transferred to the Chickasha Industrial Authority to be used to:

- (1) Encourage, promote, and foster economic and industrial development; or
- (2) To contract with the Economic Development Council of Grady County or others in order to provide the programs and services necessary to carry out the purposes of this ordinance; with the ten percent (10%) of said tax revenues retained by the City to be used by the City to offset and reimburse the City for the costs and expenses in administering and collecting said tax. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-22. Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of the hotel tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, and subsections thereof, are hereby adopted by reference and made fully effective and applicable to the administration of the hotel tax as if herein set forth. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-23. Fraudulent Returns.

The willful failure or refusal of any operator 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 Article shall be an offense, and upon conviction thereof the offending operator shall be subject to a penalty and fine in the maximum amount allowed by the provision of the City Code of the City of Chickasha. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-24. Amendments.

The people of Chickasha, by their approval of this Article at the election herein provided, hereby authorize the City Council, by ordinance or resolution duly enacted, to enter into an agreement with other parties to carry out the intent and purpose of this Article, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City as provided by law. *(Ord. No. 97-17, 08/18/1997.)*

Sec. 7-7-25. Provisions Cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City ordinances. *(Ord. No. 97-17, 08/18/1997.)*

Article 8. Economic Development Tax

Sec. 7-8-1. Citations and Codification:

This Ordinance shall be known and may be cited as the City of Chickasha Economic Development Sales Tax Ordinance of 2005, and the same shall be codified and incorporated into the Code of Ordinances of the City of Chickasha, Oklahoma. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-2. Tax Imposed.

There is hereby imposed an excise tax of one-quarter of one percent (1/4%) (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. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-3. Purpose of Revenues.

It is hereby declared to be the purpose of this Ordinance to create jobs, to attract business and industry, to construct or improve industrial parks, to promote Chickasha as a site for new

industries and businesses and to provide incentives for existing businesses and industries to add jobs by providing revenues to pay debt service or associated costs in connection with facilities to be financed by the City of Chickasha, Oklahoma (the "City") or a public trust having the City as beneficiary thereof, and/or to create new jobs and retain existing jobs in the City by paying the costs incidental to and debt service on obligations issued to assist in the establishment of new business and/or industrial facilities or to expand existing business and/or industrial facilities, to be owned or used by said businesses or industrial entities or the City or public trusts having the City as beneficiary, said sales tax to be made available and expended for the above purposes for no consideration other than the economic benefit to be provided to the citizens of the City by the establishment of said facilities and by the creation of new jobs, as will be further specified in an agreement(s) to be negotiated. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-4. Citizen's Oversight Committee.

Within ninety (90) days of the effective date of the Ordinance, the City Council will appoint a Citizen's Oversight Committee containing no fewer than five (5) members. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-5. Effective Date and Termination Date.

The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after April 1, 2006, 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 terminate and said excise tax shall not be collected after March 31, 2011. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-6. No Repeal of Tax.

This Ordinance and the excise tax levied pursuant hereto shall not be repealed by the City Council of the City or by referendum of the registered qualified voters of the City in the event the proceeds of the referenced excise tax are being used or have been pledged by the City or any public trust having the City as beneficiary for the purpose of paying debt service on obligations issued by the City or any public trust having the City as beneficiary. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-7. 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 purposes of this Ordinance, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional City permit for the same purpose. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-8. Payment of Tax.

The tax herein levied shall be paid to the Tax Collector at the time and in the manner and form prescribed for payment of the state sales tax under the State Tax Law of the State of Oklahoma. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-9. This Tax in Addition to Taxes Currently Levied; Administrative Procedures.

The tax levied hereby is in addition to any and all other excise taxes levied or assessed by the City, provided, however, that those provisions of said Ordinances relating to Definitions; Tax Collector Defined; Classification of Taxpayers; Exemptions; Other Exempt Transfers; Tax Due When--Returns--Records; tax constituting debt; Vendor's Duty to Collect Tax; Returns and Remittances - Discounts; Interest and Penalties--Delinquency; Waiver of Interest and Penalties; Erroneous Payments--Claim for Refund; Fraudulent Returns; and Records Confidential shall apply to the excise tax levied and assessed by this Ordinance. For purposes of this Ordinance, references in said existing City Ordinances and in the Code of Ordinances, City of Chickasha, Oklahoma, to specific provisions of the Oklahoma Statutes shall be deemed to be references to said statutory provisions, as amended. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-10. Amendments.

The people of the City of Chickasha, Oklahoma, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate of the tax and termination date for collection of said tax herein provided for shall not be changed without approval of the qualified electors of the City as provided by law. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-11. Provisions Cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Sec. 7-8-12. 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. *(Amended Ord. No. 2005-16, 08/01/2005 Codified by Ord. No. 2006-24, 10/02/2006).*

Article 9. Gross Receipts Tax

Sec. 7-9-1. Utility tax levied.

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential, commercial, and industrial sales of power, light, heat, gas, electricity or water within the City of Chickasha, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the City, in accordance with the provisions of Title 68 Oklahoma Statutes 1991, Sections 2601-2605, as amended and supplemented, and other applicable provisions of state law. The tax levied under this ordinance shall not apply to gross receipts from the sale of gas, electric or water for municipal purposes or for the transportation of gas, electric or water on behalf of general service users. *(Ord. No. 95-01, 01/03/1995)*

Sec. 7-9-2. Not to apply to franchises.

The tax levied under this ordinance shall, when levied, apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity, or water within the City of Chickasha municipal limits. Provided, it shall not apply to any person, firm, association or corporation operating under a valid franchise from the City granted pursuant to Article 18, Section 5(a) of the Oklahoma Constitution, nor shall it apply to those entities exempt from such taxation under any applicable provision of state law. *(Ord. No. 95-01, 01/03/1995)*

Sec. 7-9-3. Payment of tax.

The tax levied under this ordinance shall be payable monthly on or prior to the tenth (10th) of the month for the preceding month's receipts and the proceeds thereof shall be placed in the general revenue fund of the City. *(Ord. No. 95-01, 01/03/1995)*

Sec. 7-9-4. Failure to pay tax.

Any person, firm association or corporation failing or refusing to pay such tax when levied shall be regarded as a trespasser and may be ousted from such City and in addition thereto an action may be maintained against such person, firm association or corporation for the amount of the tax, and all expenses of collection same, including reasonable attorney's fees. *(Ord. No. 95-01, 01/03/1995)*

Sec. 7-9-5. Tax constitutes lien.

The tax so imposed shall constitute a first and prior lien on all of the assets located within the City of any person, firm, association, or corporation engaged in the business of selling utility services within the municipal limits of the City. (Ord. No. 95-01, 01/03/1995)

Sec. 7-9-6. Revocable permit to use the public ways.

Any persons, firms, associations, or corporations engaged in the business of furnishing gas, electric or water within the City not operating under a valid franchise from said City, and upon whom the tax provided under Section 7-9-1 of this ordinance as imposed, is hereby granted a revocable permit by said City, for so long as this ordinance remains in effect and the taxes are paid in accordance with the terms of this ordinance, to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate and maintain a system of works, pipes, pipelines, apparatus, structures, and appurtenances in, across, upon and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parkings, driveways, right-of-ways, utility easements, and other public ways, places and areas and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places and grounds," in the City as now constituted, and as may be added to hereafter, for the purpose of distributing and selling gas, electric or water to said City, its inhabitants and the public generally for domestic, commercial and industrial uses, and for any and all other purposes for which gas, electric or water during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues and other public ways, places and grounds of said town for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing and repairing said works, pipes, pipelines and all necessary apparatus, machinery, structures and appurtenances. (Ord. No. 95-01, 01/03/1995)

Sec. 7-9-7. Permit required to use the public ways.

Any persons, firms, associations, or corporations engaged in the business of furnishing gas, electric or water within the City not operating under a valid franchise from said City, and upon whom the tax provided under Section 7-9-1 of this ordinance as imposed, is hereby required to obtain a utility permit from the City prior to commencing any activities on public ways and properties owned by the City, as referenced in Section 7-9-6 above. The City of Chickasha may impose a fee for said permit at which time it deems necessary. (Ord. No. 95-01, 01/03/1995)

Sec. 7-9-8. Record of sales.

It shall be the duty of any person, firm, association or corporation subject to the tax levied hereunder to keep and maintain records as to the amount of gross receipts of sales of power, light, heat, gas, electricity or water within the City, and such records shall be subject to review and audit by the City upon reasonable request. In addition, a summary of such sales for the proceeding calendar month, including the number of customers served, the number of customers exempt from taxation under applicable Oklahoma Sales Tax Laws, the number of units of gas, electricity or water (cubic feet, kilowatt hours or gallons, respectively) sold to exempt and non-exempt customers, the gross receipts from sales to exempt and non-exempt customers, and the amount of gross receipt tax levied herein based on such sales, shall be provided unto the City at the time of payment of the tax pursuant to Section 7-9-3 hereof. (Ord. No. 95-01, 01/03/1995.)

Article 10. Tax Increment Finance District

Sec. 7-10-1. Utilization of Local Development Act.

In order to undertake redevelopment of an undeveloped area within the City, the City elects to utilize Article 10, §6C of the Constitution of the State of Oklahoma, adopted by statewide vote and implemented by the Local Development Act, which authorizes the use of local taxes for specific public investments, assistance in development financing and as a revenue source for other public entities in the area and which provides for the direction of apportionment of local taxes to plan, finance, and carry out development of unproductive, undeveloped,

underdeveloped, or blighted areas as determined by the governing body of a city, town, or county. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-2. Project Plan Approval.

The Project Plan is hereby approved and adopted as recommended by the Planning Commission and the Review Committee. As used in this ordinance, "Grand Avenue Economic Development Project Plan" or "Project Plan" shall mean the document entitled "Grand Avenue Economic Development Project Plan" dated November 21, 2005, and attached hereto as Exhibit "A". It is the intent of the City to carry out the Project Plan as provided by this Ordinance. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-3. Ratification of Actions.

All actions, findings and recommendations made or taken in connection with the Project Plan by the Planning Commission and the Review Committee are hereby ratified and confirmed, including, but not limited to, the designation and selection of representatives to the Review Committee from the taxing jurisdictions and the public at large, recommendations for approval, and the findings of conformance with the Comprehensive Plan, eligibility of the Increment District and financial impact upon the taxing jurisdictions. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-4. District Creation.

The Increment District is hereby created as of the date of the adoption of this Ordinance. For identification purposes, the name of the Increment District shall be "Increment District No. 1, City of Chickasha". *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-5. District Boundaries.

The boundaries of the Increment District encompass approximately 90.9 acres, more or less, within an area generally described as the area immediately south of Grand Avenue between 9th Street and the railroad tracks near the H.E. Bailey Turnpike (I-44), and are hereby designated and adopted as described in Exhibit "B". *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 17-10-6. Findings.

The City Commission hereby finds that:

- (a) The Increment District is within an enterprise zone area as defined by the Local Development Act;
- (b) The proposed improvements (as set forth in the Project Plan) within the Increment District are to promote the general public interest;
- (c) The guidelines of paragraphs 1 and 2 of Section 852 of the Local Development Act shall be as followed'
- (d) The aggregate net assessed value of the taxable property in all increment districts within the City, as determined pursuant to Section 862 of the Local Development Act, does not exceed 35% of the total net assessed value of taxable property within the City;
- (e) The aggregate net assessed value of the taxable property in all increment districts within the City, as determined pursuant to Section 862 of the Local Development Act, does not exceed 25% of the total assessed net value of any affected school districts located within the City;
- (f) The land area of all increment districts within the City does not exceed 25% of the total land area of the City; and
- (g) The Project Plan is feasible and conforms to the Comprehensive Plan of the City of Chickasha, as amended. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-7. Right to Amend Project Plan.

The City reserves to itself the authority to make minor amendments to the Project Plan in accordance with the definition provided in Section 858(D) of the Local Development Act; provided however, the City shall not approve any amendments that cause the total reimbursement from tax increment revenues to exceed \$5.3 million, as set forth in the Project Plan. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-8. Authority the Designated Public Entity

The Authority is designated as the public entity authorized to carry out and administer the provisions of the Project Plan and to exercise all powers necessary thereto except those powers reserved to the municipal governing body by this ordinance and the Local Development Act. (Amended Ord. No. 2005-17, 11/21/2005.)

Sec. 7-10-9. Approval of Economic Development Agreement.

Approval of and concurrence with the Economic Development Agreement by and among LaForge Properties, LLC, Ace Investments, Inc., and the Authority (the "Economic Development Agreement") is hereby granted and the Mayor or Vice Mayor and City Clerk or Assistant City Clerk are hereby authorized to execute same for and on behalf of the City, and to do all other lawful things to assist the Authority in carrying out the terms and conditions of said Economic Development Agreement. (Amended Ord. No. 2005-17, 11/21/2005.)

Sec. 7-10-10. Approval of Apportionment Security Agreement.

The Sales Tax and Ad Valorem Apportionment Security Agreement by and between the City and the Authority is hereby approved and the Mayor or Vice Mayor and City Clerk or Assistant City Clerk are hereby authorized to execute same for and on behalf of the City. (Amended Ord. No. 2005-17, 11/21/2005.)

Sec. 7-10-11. Tax Apportionment Fund.

There is hereby created a fund called the "Increment District No. 1, City of Chickasha, Tax Apportionment Fund". All monies apportioned pursuant to Section 12 and Section 13 herein shall be deposited in said fund. (Amended Ord. No. 2005-17, 11/21/2005.)

Sec. 7-10-12. Apportionment of Ad Valorem Increments.

The increment of ad valorem taxes generated from the Increment District shall be prospectively apportioned to the Authority for a period of fifteen (15) years, as provided for by Article 10, § 6C of the Oklahoma Constitution, for the purpose of reimbursing project costs authorized pursuant to Section IX of the Project Plan. Such apportionment shall continue until the earlier of (i) full reimbursement of authorized project costs in an amount not to exceed \$5.3 million or (ii) November 21, 2020. Provided, however, such apportionment shall be subject to the following limitations:

- (a) On the ad valorem tax increment generated from any increase in assessed valuation over the baseline valuation as determined pursuant to Section 862 of the Local Development Act, three-fourths (3/4) of the ad valorem tax increment is hereby apportioned to the Authority, with the balance to be retained by the applicable taxing jurisdictions; provided, however, such increment of ad valorem tax revenue shall only include ad valorem tax revenue generated by new businesses (not located on the date hereof within the City of Chickasha) locating within the Increment District and shall specifically exclude ad valorem tax revenue generated by (i) existing businesses located within the Increment District and (ii) existing businesses (located on the date hereof within the City of Chickasha, but outside the boundaries of the Increment District) that may ultimately relocate to within the Increment District;
- (b) For purposes of calculating the increment of ad valorem taxes if a new building within the Increment District contains more than one business entity, and at least one of the business entities is an existing Chickasha business that is excluded from the increment pursuant to subsection (a) above, the portion of the ad valorem tax revenue excluded from the increment shall be a pro rata portion of the ad valorem tax on the building based on the aggregate square footage occupied by any existing Chickasha business entities as compared to the total square footage of the building;
- (c) The apportionment of all ad valorem tax increments shall expire the earlier of November 21, 2020, or the time when all project costs have been paid pursuant to the Project Plan;

- (d) Ad valorem tax increments generated during the period of apportionment (prior to November 21, 2020) may be used to reimburse authorized project costs even to the extent that such tax increments are not received until after the period of apportionment expires. For example, ad valorem tax increments allocable to the final year (or pro rata portion thereof) of the Increment District, but not paid to and received from Grady County until after the expiration date of the Increment District, may still be utilized for reimbursement of project costs. No ad valorem tax increments generated after the expiration of the period of apportionment may be used to reimburse any project costs; and
- (e) Upon reimbursement of all authorized project costs as provided in the Project Plan, any remaining ad valorem tax increments that have been apportioned to the Authority shall be returned to the applicable taxing jurisdictions. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-13. Apportionment of Sales Tax Increments.

The increment of sales taxes generated from the Increment District shall be prospectively apportioned to the Authority for a period of fifteen (15) years, as provided for by Article 10, §6C of the Oklahoma Constitution, for the purpose of reimbursing project costs authorized pursuant to Section IX of the Project Plan. Such apportionment shall continue until the earlier of (i) full reimbursement of authorized project costs in an amount not to exceed \$5.3 million or (ii) November 21, 2020. Provided, however, such apportionment shall be subject to the following limitations:

- (a) On the sales tax increment generated from any increase in sales tax revenue generated within the Increment District by virtue of the levy of a total of three percent (3%) sales tax pursuant to Ordinance Nos. 827, 1137, and 1671 of the City as such Ordinances may be amended from time to time, one half (1/2) of the sales tax increment is hereby apportioned to the Authority, with the balance to be retained by the City; provided, however, such increment of sales tax revenue shall only include sales tax revenues generated by new businesses (not located on the date hereof within the City of Chickasha) locating within the Increment District and shall specifically exclude sales tax revenues generated by (i) existing businesses located within the Increment District and (ii) existing businesses (located on the date hereof within the City of Chickasha, but outside the boundaries of the Increment District) that may ultimately relocate to within the Increment District;
- (b) The sales tax increment shall not include any of the three-quarter percent (3/4%) sales tax levied pursuant to Ordinance No. 2001-07 of the City, the one-quarter percent (1/4%) sales tax levied pursuant to Ordinance No. 2005-16 of the City, the one-quarter percent (1/4%) sales tax levied by Grady County, Oklahoma, or any other sales tax levied within the Increment District;
- (c) The apportionment of all sales tax increments shall expire the earlier of November 21, 2020, or the time when all project costs have been paid pursuant to the Project Plan;
- (d) Sales tax increments generated during the period of apportionment (prior to November 21, 2020) may be used to reimburse authorized project costs even to the extent that such tax increments are not received until after the period of apportionment expires. For example, sales tax increments generated during the final month (or pro rata portion thereof) of the increment district, but not received from the Oklahoma Tax Commission until after the expiration date of the Increment District, may still be utilized for reimbursement of project costs. No sales tax increments generated after the expiration of the period of apportionment may be used to reimburse any project costs; and
- (e) Upon reimbursement of all authorized project costs as provided in the Project Plan, any remaining sales tax increments that have been apportioned to the Authority shall be returned to the City. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-14. Increments Constitute Authority Funds; Uses.

From and after apportionment, the apportioned increments shall constitute funds of the Authority. Apportioned increments may be pledged for the reimbursement of project costs; provided, however, the pledge of apportioned increments toward such reimbursements shall be limited to increments actually apportioned by the City and any security instruments shall provide that except as provided for in this Ordinance, the City has no legal obligation or promise to apportion additional increments in future years. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-15. Authorization to Reimburse Project Costs.

The Authority shall have the authorization to carry out certain provisions of the Project Plan, as authorized in Section VIII(A) of the Project Plan, and to utilize apportioned tax increments to reimburse authorized project costs. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Section 7-10-16. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this ordinance. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-17. Emergency.

It is immediately necessary for the preservation of the public health, peace, and safety of the City of Chickasha, Oklahoma, and the inhabitants thereof that the provisions of this Ordinance become operative immediately and therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately from and after its passage and approval. *(Amended Ord. No. 2005-17, 11/21/2005.)*

Sec. 7-10-18. Necessary Action.

The Mayor or Vice Mayor and City Clerk or Assistant City Clerk be and hereby are authorized and empowered to execute and deliver for and on behalf of the City any and all other documents or instruments reasonably necessary to accomplish the implementation of the Project Plan. *(Amended Ord. No. 2005-17, 11/21/2005.)*