

**PART 7**

**FINANCE AND TAXATION**

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**CHAPTER 1**

**FINANCE AND BUDGET ADMINISTRATION**

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**SECTION 7-101                      DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED**

All banks and all savings and loan associations in this Town which are incorporated under federal or state law are hereby designated as depositories for the funds of the Town. The Town Treasurer shall deposit daily all public funds received by him in such banks or savings and loan associations.

State Law Reference: Deposits by treasurers, designation of depositories; *Okla. Stat. Ann. tit 11, Section 12-110.*

**SECTION 7-102                      FUNDS SECURED BY UNIT COLLATERAL SYSTEM**

The deposits of the Town shall be secured by the Unit Collateral System provided by the Oklahoma Statutes.

State Law Reference: Unit Collateral System, *Okla. Stat. Ann. tit 62, Section 516.1 et seq.*

**SECTION 7-103                      CONTRACTUAL SERVICES DEFINED FOR PURCHASING**

"Contractual services", for the purpose of this Chapter means services performed for the Town by persons not in the employment of the Town, 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 Town; and other services performed for the Town by persons not in the employment of the Town.

**SECTION 7-104**      **PURCHASES, HOW MADE**

All purchases of supplies, materials, equipment and contractual services for the offices, departments and agencies of the Town government, shall be made by the Town Board of Trustees or by other Town personnel in accordance with purchase authorizations issued by the Town Board of Trustees.

**SECTION 7-105**      **WHEN PRIOR APPROVAL BY THE TOWN BOARD OF TRUSTEES IS REQUIRED**

Every contract for, or purchase of, supplies, materials, equipment or contractual services for more than Two Thousand Dollars (\$2,000.00) shall require the prior approval of the Town Board of Trustees.

State Law Reference: Purchase Order Act, *Okla. Stat. Ann. tit 62, Sections 310.1 et seq.*

**SECTION 7-106**      **COMPETITIVE BIDDING**

Before any purchase of, or contract for, supplies, materials, equipment or contractual services are made, as otherwise provided below, the Town purchasing authority 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 the same, a request for quotation, or invitation to bid, and specifications, to give them opportunity to bid; and publish notice of the proposed purchase in a newspaper of general circulation within the Town. He shall favor a person, firm or corporation in the Town when this can be done without additional cost to the Town; but he shall submit requests for quotation to those outside the Town 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 Town; and shall purchase from them when he can make a saving for the Town. 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 again publish notice of the proposed purchase. He may purchase from the bidder whose bid is most advantageous to the Town, 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 Town.

State Law Reference: Public competitive bidding law, bidding required on construction and public works projects of \$12,500.00, *Okla. Stat. Ann. tit 61, Sections 101 et seq.*

**SECTION 7-107      WHEN COMPETITIVE BIDDING IS NOT REQUIRED**

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

1.      Supplies, materials, equipment or contractual services whose cost does not exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) in a single transaction;
2.      Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever bought;
3.      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;
4.      Equipment to replace existing equipment which has become inoperable when the Town Board of Trustees declares the purchase an emergency;
5.      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;
6.      Supplies, materials, equipment or contractual services when purchased at a price not exceeding a price set therefore 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
7.      Contractual services of a professional nature, such as engineering, architectural, legal and medical services unless competitive bidding is required by applicable law or regulations, such as certain federal grants programs.

**SECTION 7-108      SALES, TOWN BOARD OF TRUSTEES TO DECLARE SURPLUS OR OBSOLETE COMPETITIVE BIDDING**

No surplus or obsolete supplies, materials or equipment of value of more than Five Hundred Dollars (\$500.00) may be sold until the Town Board of Trustees have declared them obsolete or surplus. Before the Town Board of Trustees sells any surplus or obsolete supplies, materials or equipment, except as otherwise provided for in this Chapter, they shall be advertised for sale in a newspaper of general circulation in the Town or give notice in such other manner as the Board of Trustees deems necessary adequately to reach prospective buyers to give them opportunity to make 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 Town Board of Trustees may repeatedly reject all bids and advertise or give notice again. The Town Board of Trustees shall sell such supplies, materials and equipment to the highest responsible bidder for cash. In case of a tie, the Board of Trustees may sell to either of the bidders tying, or may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders for cash.

**SECTION 7-109**      **REVIEW OF PURCHASE ORDERS, PAYROLL AND BUDGET**

The preparation of all purchase orders, payroll and Town budget for the Town shall be received, prepared and completed by the Municipal Authority Clerk of the Town. Any of the duties and responsibilities set out above may be modified or amended by action of the Town Board of Trustees. (Ord. No. 96-3, 8/5/96)

**SECTION 7-110**      **MUNICIPAL BUDGET ACT ADOPTED**

Pursuant to the provisions of the "Municipal Budget Act" found, and as amended, in *Okla. Stat. Ann. tit. 11 Section 17-201, et seq.*, the Council, by adoption, resolves and ordains to follow and comply with all of the provisions and requirements of the Municipal Budget Act to govern its budget procedures commencing with the fiscal year 1999-2000, whereby all financial officers of the Town are to comply with the requirements of this Act.



**CHAPTER 2**

**SALES TAX**

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<b>Section 7-211</b>	<b>Exemptions; General</b>
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**SECTION 7-201      CITATION AND CODIFICATION**

This Chapter shall be known and may be cited as “Town of Oologah Sales Tax Ordinance”.

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

**SECTION 7-202      DEFINITIONS**

A.      The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes, and in Sections 576 and 593 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this Chapter.

B.      A sale shall include the sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or otherwise occurs.

**SECTION 7-203      TAX COLLECTOR DEFINED**

The term “tax collector” as used in this Chapter means the department of the Town 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.

**SECTION 7-204      CLASSIFICATION OF TAX PAYERS**

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.

**SECTION 7-205      SUBSISTING STATE PERMITS**

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Chapter, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional Town permit for the same purpose.

**SECTION 7-206      EFFECTIVE DATE**

This Chapter became effective as to each cent tax after approval of a majority of the registered voters of the Town voting on the ordinance in the manner prescribed by Section 16-112 of Title 11 of the Oklahoma Statutes.

**SECTION 7-207      PURPOSE OF REVENUES**

It is the purpose of the first one-cent sales tax to provide revenues for the support of the functions of the municipal government of the Town.

This Chapter includes sales tax law amendments.

**SECTION 7-208      TAX RATE – SALES SUBJECT TO TAX**

There is hereby levied an excise tax of two percent (2%) 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:

1.      Tangible personal property.
2.      Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water and those specifically exempt by this Chapter.
3.      Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxi cab companies, Pullman car companies, airlines and all other means of transportation for hire.
4.      Service by telephone and telegraph companies to subscriber 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 messages.
5.      Printing or printed matter of all types, kinds, and characters and the service or 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.
6.      Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camps.
7.      Service of furnishing storage or parking privileges by auto hotels and parking lots.
8.      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.
9.      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.
10.     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.
11.     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 by the use of facilities or services rendered at a health spa or club or any similar facility or business.

12. 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 complementary admissions, which shall have the value equivalent to the charge that would have otherwise been made.

13. Charges made for the privilege of entering or engaging in any kind of activity, when no admission is charged spectators, such as tennis, racket ball or handball courts.

14. Charges made for the privilege of using items for amusement, sports, entertainment or recreational activity such as trampolines or golf carts.

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports and athletic equipment.

16. 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.

17. 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 or gross proceeds.

18. 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 Chapter 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.

19. 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 out this State for delivery within this State shall not be subject to the tax levied by this Chapter.

20. 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:

- a. The operation of the business;

- b. The nature of the business;
- c. The turnover of independent contractors;
- d. the lack of place of business in which to display a permit or keep records;
- e. Lack of adequate records;
- f. The persons are minors or transients;
- g. The persons are engaged in service businesses; or
- h. Any other reasonable reason.

21. 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.

22. 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.

**SECTION 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 :

- 1. 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;
- 2. 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;
- 3. Sale of crude petroleum, 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
- 4. Sale of aircraft on which the tax levied pursuant to Sections 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.

**SECTION 7-210      EXEMPTIONS; GOVERNMENTAL AND NON-PROFIT ENTITIES**

There are hereby specifically exempted from the tax levied by this Chapter;

1. Sale of tangible personal property or services to the United States Government or to the State of Oklahoma, any political subdivision of this State or any agency of a political subdivision of 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;

2. 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;

3. Sale of food in cafeterias or lunchrooms 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;

4. 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;

5. 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;

6. 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;

7. Sales of tangible personal property or services to the Town Board of Trustees by organizations or similar State supervisory organizations of the Boy Scouts of U.S.A. and the Campfire Girls shall be exempt from sales tax; and

8. Sale of tangible personal 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. 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.

**SECTION 7-211**      **EXEMPTIONS; GENERAL**

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

1.      Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2.      Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicab;
3.      Carrier sales of newspapers and periodicals made directly to consumers. Other sales of newspapers and periodicals 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;
4.      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;
5.      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;
6.      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 purchase or vendor shall be a misdemeanor;

7. 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 define by Section 353.1 of Title 59 of the Oklahoma Statutes; and

8. Nothing herein shall be construed as limiting or prohibiting the Town from levying and colleting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or any other use after December 31, 1980. The sales tax levied by the Town on natural or artificial gas and electricity shall be in effect regardless or any ordinance or contractual provision referring to previously imposed State sales tax on such items.

### **SECTION 7-212      EXEMPTIONS; AGRICULTURE**

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

1. Sales of agricultural products produced in this State by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

- a. Farm, orchard, or garden products;
- b. Dairy products sold by a dairyman or farmer who owns all the cows from which the dairy products offered for sale are produced;
- c. Livestock sold by the producer at a special livestock sale; and
- d. 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;

2. Sale of baby chicks, turkey pullets, 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;

3. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;



b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules, or other domestic or draft animals used directly in the producing and marketing of agricultural products;

c. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;

d. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;

e. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and

f. 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 sale 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;

4. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:

a. Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming and/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 and /or ranching and that the material purchased will be used only in such business;

b. Sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming and/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 and/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;

c. Sales of agricultural fertilizer 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" means any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants;

d. Sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming and/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;

e. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming and/or ranching. For the purpose 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 microorganisms, 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

f. 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 permits; or

g. 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 and/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.

**SECTION 7-213**      **EXEMPTIONS; MANUFACTURERS**

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

1. 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;

2. 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;

3. 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” means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

4. 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. 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

5. 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.

**SECTION 7-214**      **EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS**

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

1. The transfer of tangible personal property, as follows:

a. 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;

b. 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;

c. 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;

d. 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

e. From a partnership to the members thereof when made in kind in the dissolution of such partnership;

2. 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.

**SECTION 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.

**SECTION 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 Town sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the Town and the tax collector, in the collection of both the Town sales tax and the state sales tax.

**SECTION 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.

**SECTION 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 is the duty of each and every vendor in this Town 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, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this Code.

D.      Any sum or sums collected or required to be collected in accordance with this Chapter shall be deemed to be held in trust for the Town. 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, and upon conviction thereof shall be punished as provided in Section 1-108 of this Code.

**SECTION 7-219**      **RETURNS AND REMITTANCES; DISCOUNTS**

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances of tax collected hereunder and shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of state sales taxes.

**SECTION 7-220**      **INTEREST AND PENALTIES; DELINQUENCY**

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this Chapter, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Chapter. The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Chapter shall cause such tax to be delinquent. In addition, if the delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this Chapter.

**SECTION 7-221      WAIVER OF INTEREST AND PENALTIES**

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the Town tax herein levied may be waived or remitted in the same manner as provided for the waiver or as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes. To accomplish the purposes of this Section, the applicable provisions of Section 220 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this Section, the applicable provisions of Section 227 of Title 68 are hereby adopted by reference and made a part of this Chapter.

**SECTION 7-222      ERRONEOUS PAYMENTS; CLAIM FOR REFUND**

Refund of erroneous payment of the Town sales tax herein levied may be made to any taxpayer making the erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this Section, the applicable provisions of Section 227 of Title 68 are hereby adopted by reference and made a part of this Chapter.

**SECTION 7-223      FRAUDULENT RETURNS**

In addition to all civil penalties provided by this Chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to a fine as provided in Section 1-108 of this Code.

**SECTION 7-224      RECORDS CONFIDENTIAL**

The confidential and privileged nature of the records and files concerning the administration of the Town sales tax is legislatively recognized and declared, and to protect the same provisions of the State Sales Tax Code, Section 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 Town sales tax as if here set forth in full.

**SECTION 7-225      AMENDMENTS**

The people of the Town, by their approval of the sales tax ordinance hereby authorize the Town Board of Trustees, 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 Town as provided by law.

**SECTION 7-226**      **PROVISIONS CUMULATIVE**

The provisions of this Chapter shall be cumulative and in addition to any or all other taxing provisions of Town ordinances.





**CHAPTER 3**

**TELEPHONE EXCHANGE FEE**

<b>Section 7-301</b>	<b>Fee Levied on Telephone Exchanges</b>
<b>Section 7-302</b>	<b>Fee to be In Lieu of Other Fees, Taxes</b>

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**SECTION 7-301**

**FEE LEVIED ON TELEPHONE EXCHANGES**

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the Town 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 Town to compensate the Town for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the Town. The inspection fee and charge shall be due and payable to the Town on or before June 1 of each year and shall be paid into and appropriated and expended from the general revenue fund of the Town.

State Law Reference: Town powers to levy utility tax on gross receipts, 68 O.S. Sections 2601 et seq.

**SECTION 7-302**

**FEE TO BE IN LIEU OF OTHER FEES, TAXES**

During continued substantial compliance with the terms of this Chapter by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees, or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the Town is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police call systems of the Town.



**CHAPTER 4**

**UTILITIES TAX**

**Section 7-401      Fee on Utilities**

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**SECTION 7-401                      FEE ON UTILITIES LEVIED**

There is hereby levied on all companies not paying a franchise tax to the Town an excise tax of two percent (2%) upon the gross proceeds or gross receipts derived from all sales of natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water.

State Law Reference: Cities authorized to levy tax on utilities, 68 O.S. Sections 2601 et seq.



**CHAPTER 5**

**USE TAX**

<b>Section 7-501</b>	<b>Excise Tax on Storage, Use or Other Consumption of Tangible, Personal Property Levied</b>
<b>Section 7-502</b>	<b>Exemptions</b>
<b>Section 7-503</b>	<b>Time When Due - Returns - Payment</b>
<b>Section 7-504</b>	<b>Tax Constitutes Debt</b>
<b>Section 7-505</b>	<b>Collection of Tax by Retailer or Vendor</b>
<b>Section 7-506</b>	<b>Collection of Tax by Retainer or Vendor not Maintaining a Place of Business Within State or Both Within and Without State - Permits</b>
<b>Section 7-507</b>	<b>Revoking Permits</b>
<b>Section 7-508</b>	<b>Remunerative Deductions Allowed Vendors or Retailers of Other States</b>
<b>Section 7-509</b>	<b>Interest and Penalties - Delinquency</b>
<b>Section 7-510</b>	<b>Waiver of Interest and Penalties</b>
<b>Section 7-511</b>	<b>Erroneous Payments - Claim for Refund</b>
<b>Section 7-512</b>	<b>Fraudulent Returns</b>
<b>Section 7-513</b>	<b>Records Confidential</b>
<b>Section 7-514</b>	<b>Provisions Cumulative</b>
<b>Section 7-515</b>	<b>Provisions Severable</b>
<b>Section 7-516</b>	<b>Definitions</b>
<b>Section 7-517</b>	<b>Tax Collector Defined</b>
<b>Section 7-518</b>	<b>Classification of Taxpayers</b>
<b>Section 7-519</b>	<b>Subsisting State Permits</b>
<b>Section 7-520</b>	<b>Purposes of Revenue</b>

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**SECTION 7-501      EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF 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 rate of three percent (3.0%) of 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 the 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 in the municipality for the purpose of fabrication, repair, testing,

alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

**SECTION 7-502      EXEMPTIONS**

The provisions of this Chapter shall not apply:

A.      in respect to the use of an article of tangible, personal property brought into the municipality by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;

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 Town of Oologah Use Tax Ordinance, has been paid by the person using such tangible, personal property in the municipality, 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 Town of Oologah Use Tax Ordinance, the provisions 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 Town of Oologah Use Tax Ordinance, 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 the municipality;

D.      in respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. 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 municipality. The term "manufacturing plants" shall mean 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 municipality;

F.      in respect to the use of any article of tangible, personal property brought into the municipality by an individual with intent to become a resident of this municipality 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; or

H. in respect to livestock purchased outside Oklahoma and brought into this municipality for feeding or breeding purposes, and which is later resold.

**SECTION 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.

**SECTION 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.

**SECTION 7-505**                      **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 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 municipality and location of any and all distribution or sales houses or offices or other places of business in this Town.

**SECTION 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 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 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.

**SECTION 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 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. 1981, 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 this Chapter, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

**SECTION 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 said Code for the collection of State Use Taxes.

**SECTION 7-509      INTEREST AND PENALTIES - DELINQUENCY**

*Section 21 of Title 68 O.S. 1981* is hereby adopted and made a part of this Chapter, 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 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.



**SECTION 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 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. 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 Chapter.

**SECTION 7-511**      **ERRONEOUS PAYMENTS - 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 Chapter.

**SECTION 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 by a fine of not more than One Hundred Dollars (\$100.00) and costs. Each day of noncompliance with this Chapter shall constitute a separate offense.

**SECTION 7-513**      **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. 1981, Section 205, of the State Use Tax Code*, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipality Use Tax as if herein set forth in full.

**SECTION 7-514**      **PROVISIONS CUMULATIVE**

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

**SECTION 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.

**SECTION 7-516      DEFINITIONS**

The definitions of words, terms and phrases contained in the *Oklahoma Use Tax Code, Section 1401, 68 O.S. 1981*, 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:

1.     Town shall mean the Town of Oologah, Oklahoma.
2.     Transaction shall mean sale.

**SECTION 7-517      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.

**SECTION 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.

**SECTION 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 municipality permit for the same purpose.

**SECTION 7-520      PURPOSES OF REVENUE**

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 purpose for which funds may be lawfully expended as authorized.

**CHAPTER 6**

**TAX ON NON-FRANCHISE HOLDERS**

<b>Section 7-601</b>	<b>Tax Levied</b>
<b>Section 7-602</b>	<b>Payment</b>
<b>Section 7-603</b>	<b>Failure to Pay</b>
<b>Section 7-604</b>	<b>Lien of Tax</b>

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**SECTION 7-601      TAX LEVIED**

There is hereby levied and assessed an annual tax in the amount of Two Percent (2%) of the gross receipts from sales of power, light, heat, gas and electricity in the Town of Oologah, Oklahoma, from residential and commercial sales, which tax shall be in lieu of any other franchise, license, occupation or excise tax; provided, however, that the provisions hereof shall not apply to any person, firm, association or corporation operating under a valid franchise in said Town.

**SECTION 7-602      PAYMENT**

That the annual tax levied herein shall be payable quarterly and placed in the General Revenue Fund of the Town of Oologah and every person, firm, or association or corporation subject to the provisions hereof shall with each quarterly payment furnish a complete and accurate verified statement of all gross receipts from residential and commercial sales within said Town during the period for which said quarterly payment is made; said statement and payment shall be made to the Town Clerk not later than twenty (20) days after the expiration of the quarter when due.

**SECTION 7-603      FAILURE TO PAY**

Any person, firm or corporation failing or refusing to pay such tax shall be regarded as a trespasser and may be ousted from the Town of Oologah and, in addition thereto, an action may be maintained against such person, firm or corporation for the amount of the tax and all expense of collecting same, including reasonable attorneys fees.

**SECTION 7-604      LIEN OF TAX**

The tax imposed hereunder shall constitute a first and prior lien upon all of the assets located within the Town of Oologah, Oklahoma, of any person, firm or corporation engaged in the business of selling power, light, heat, gas or electricity therein.



**CHAPTER 7**

**HOTEL/MOTEL TAX**

<b>Section 7-701</b>	<b>Definitions</b>
<b>Section 7-702</b>	<b>Imposition of Tax</b>
<b>Section 7-703</b>	<b>Exemptions</b>
<b>Section 7-704</b>	<b>Tax to be Separate Charge</b>
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<b>Section 7-706</b>	<b>Failure to Collect, Payable by Occupant</b>
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<b>Section 7-711</b>	<b>Records to be kept</b>
<b>Section 7-712</b>	<b>Returns</b>
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<b>Section 7-718</b>	<b>Proceedings to Recover Tax</b>
<b>Section 7-719</b>	<b>General Powers of the Treasurer</b>
<b>Section 7-720</b>	<b>Oaths and Testimony</b>
<b>Section 7-721</b>	<b>Registration</b>
<b>Section 7-722</b>	<b>Interest and Penalties</b>
<b>Section 7-723</b>	<b>Records Confidential</b>
<b>Section 7-724</b>	<b>Amendments</b>
<b>Section 7-724</b>	<b>Provisions Cumulative</b>
<b>Section 7-726</b>	<b>Creation of Fund</b>
<b>Section 7-727</b>	<b>Effective Date, Term</b>

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**SECTION 7-701      DEFINITIONS**

As used in this Chapter, the following definitions are adopted:

1. “Hotel or “motel” means any building or buildings, 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, motels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, recreational vehicle parks, also known as RV parks, dormitory space, where bed space is rented to individuals or groups, apartments not occupied by permanent residents, as defined herein, and all other facilities

where rooms or sleeping facilities or space are furnished for consideration. As defined herein, the term hotel shall not include hospitals sanitariums or nursing homes;

2. “Occupancy” means the use or possession, or the right to the use or possession of any room or rooms in a hotel or motel;

3. “Occupant” means 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 or motel under the lease, concession, permit, right of access, license to use, or other agreement, or otherwise;

4. “Operator” means any person operating a hotel or motel in this Town including, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel;

5. “Permanent Resident” means any occupant who has or shall have the right of occupancy of any room or rooms in the same hotel or motel for at least thirty (30) consecutive days during the current calendar year or preceding year;

6. “Person” means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise or any combination of the above acting as a unit;

7. “Rent” means the consideration received from 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 therefrom whatsoever;

8. “Return” means any return filed or required to be filed as herein provided;

9. “Room” means any room or rooms of any kind in any part or portion of a hotel or motel which is available for or let out for the use or possessed for the purpose of lodging or sleeping;

10. “Treasurer” means the Treasurer of the Town or his duly designated representative.

(Ord. No. 94-6, 6/5/95)

## **SECTION 7-702      IMPOSITION OF TAX**

There is hereby levied an excise tax of Three Percent (3%) upon the gross proceeds or gross receipts derived from the rent for ever occupancy of a room or rooms in a hotel and motel in this Town, except that the tax shall not be imposed where the rent is less than at the rate of Five Dollars (\$5.00) per day. (Ord. No. 94-6, 6/95/95)

**SECTION 7-703      EXEMPTIONS**

No tax shall be imposed hereunder upon:

1. Permanent residents;
2. The United States Government insofar as it is immune from taxation; and
3. The State of Oklahoma or any municipality or any political subdivision thereof.

(Ord. No. 94-6, 6/5/95)

**SECTION 7-704      TAX TO BE SEPARATE CHARGE**

The tax to be collected shall be charged separately from the rent and shown as other applicable taxes at the time when the occupancy is arranged or contracted for, and charged for, and upon every evidence of occupancy or any bill or statement or charge made for the occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the Town, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer or any corporate officer shall be personally liable for the tax collected or required to be collected under this title, and the operator shall have the same right in respect to collecting the tax from the occupant or in respect to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of nonpayment of rent by the occupant. Provided, however, that the Town shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax. (Ord. No. 94-6, 6/5/95)

**SECTION 7-705      TAXES CONSTITUTE SUPERIOR LIEN**

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claim of unsecured creditor and may be collected by suit as any other debt. (Ord. No. 4-6, 6/5/95)

**SECTION 7-706      FAILURE TO COLLECT, PAYABLE BY OCCUPANT**

Where the occupant has failed to pay, and the operator has failed to collect a tax as imposed by this Chapter, then in addition to all other rights, obligations and remedies provided, such as shall be payable by the occupant directly to the Treasurer, and it shall be the duty of the occupant to file a return thereof with the Treasurer and to pay the tax imposed thereon to the Treasurer within fifteen (15) days after such tax was due. (Ord. No. 94-6, 6/5/95)

**SECTION 7-707**      **OCCUPANT TO FILE RETURNS**

The Treasurer may, whenever he deems it necessary for the proper enforcement of this Chapter, provide by regulation that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed, and payment over made by the operator. (Ord. No. 94-6, 6/5/95)

**SECTION 7-708**      **APPLICABILITY**

The tax imposed by this Chapter shall be paid upon any occupancy on or after the effective date of this Chapter, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to the effective date of this Chapter. Where rent is paid or charged or billed, or falls due on either weekly or other term basis, the rent so paid, charged, billed or falling due, shall be subject to the tax herein imposed to the extent that it covers any portion of the period after the effective date of this Chapter, and such payment, bill, charge or rent due shall be apportioned on the basis of the ratio of the number of days falling within the portion to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may, by regulation, provide for credit or refund of the amount of such tax upon application therefor as provided herein. (Ord. No. 94-6, 6/5/95)

**SECTION 7-709**      **BURDEN ON OPERATOR OR OCCUPANT**

For the purpose of proper administration of this Chapter, and to prevent evasion of the tax hereby imposed, it is presumed that all rentals are subject to tax until the contrary is established and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant. (Ord. No. 94-6, 6/5/95)

**SECTION 7-710**      **ADVERTISING**

No operator shall advertise or hold out to the public in any manner directly or indirectly that the tax imposed by this Chapter is not considered as an element in the rent charged to the occupant. (Ord. No. 94-6, 6/5/95)

**SECTION 7-711**      **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 Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Treasurer, or a duly authorized agent or employee of the Town, and shall be preserved for a period of three (3) years except that the Treasurer may consent to their destruction within that period or may require that they be kept longer. (Ord. No. 94-6, 6/5/95)



**SECTION 7-712      RETURNS**

A. Every operator on or before the fifteenth (15) day of each month shall file with the Treasurer a return of rents and of the taxes payable thereon for the preceding calendar month. The date of filing shall be either the day of delivery to the Treasurer or the date of postmark if the return is transmitted by mail.

B. The Treasurer may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the Treasurer and shall contain such information as he may deem necessary for the proper administration of this Chapter. The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

C. If a return required by this Chapter is not filed or if a return when filed is incorrect or insufficient on its face, the Treasurer shall take the necessary steps to enforce the filing of a return or of any amended return. (Ord. No. 94-6, 6/5/95)

**SECTION 7-713      PAYMENT OF TAX**

At the time of filing a return of rents, each operator shall pay to the Treasurer the taxes imposed 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 Chapter. All the taxes for the period for which a return is required to be filed shall be due 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 shows the amount of rents and the taxes due. (Ord. No. 94-6, 6/5/95)

**SECTION 7-714      ASSESSMENT AND DETERMINATION OF TAX**

If a return required by this Chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as:

1. Number of rooms;
2. Location;
3. Scale of rents;
4. Comparable rents;
5. Types of accommodations and services;
6. Number of employees; or
7. 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, unless the person against whom it is assessed, within ten (10) days after the giving of notice of such assessment, shall apply in writing to the Town Board of Trustees for a hearing, or unless the

Treasurer on his own motion shall reassess the same. After such hearing, the Town Board of Trustees shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final. If the taxes and interest due are not paid within ten (10) days of assessment or reassessment by the Treasurer or determination by the Board of Trustees, in addition to the taxes and interest, the operator shall pay a penalty equal to Ten Percent (10%) of the taxes due. If the taxes and interest due are not paid within thirty (30) days from the date of assessment or reassessment by the Treasurer or determination by the Board of Trustees, in addition to the taxes and interest, the operator shall pay a penalty equal to Twenty-Five Percent (25%) of the taxes due. (Ord. No. 94-6, 6/5/95)

**SECTION 7-715**      **REFUNDS**

A. In the manner provided in this Chapter, the Treasurer shall refund or credit any tax erroneously or illegally collected if written application to the Treasurer for such refund shall be made within ninety (90) days from the date of payments thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the Treasurer. Whenever a refund is made, the reasons therefor 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 actually paid such tax to the Treasurer providing that the application is made within ninety (90) days of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for the refund is made. The Treasurer, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.

B. An application for a refund or credit made, as herein provided, shall be deemed an application for a revision of any tax, penalty or interest complained of and the Treasurer may receive evidence with respect thereto. After making a determination as to the refund, the Treasurer shall give notice thereof to the applicant. Such determination shall be final unless the applicant within ten (10) days after such notice shall apply in writing to the Town Board of Trustees for a hearing. After such hearing the Town Board of Trustees shall give written notice of its decision to the applicant.

C. A person shall not be entitled to revision, refund or credit of a tax under this Chapter where he has had a hearing or an opportunity for a hearing as provided in this Chapter, and has failed to avail himself of the remedies therein provided. (Ord. No. 94-6, 6/5/95)

**SECTION 7-716**      **NOTICES**

Notices provided for under this Chapter 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. 94-6, 6/5/95)

**SECTION 7-717**      **REMEDIES EXCLUSIVE**

The remedies provided in this Chapter shall be exclusive remedies available to any person for the review of tax liability imposed by this Chapter. (Ord. No. 94-6, 6/5/95)

**SECTION 7-718**      **PROCEEDINGS TO RECOVER TAX**

Whenever any operator or any occupant, or other person, shall fail to collect and pay over any tax, or to owe any tax, penalty or interest imposed by this Chapter, as herein provided, the Town Attorney shall, upon the request of the Treasurer, bring an action to enforce the payment of the same. (Ord. No. 94-6, 6/5/95)

**SECTION 7-719**      **GENERAL POWERS OF THE TREASURER**

In addition to all other powers granted to the Treasurer, he is hereby authorized and empowered:

1. To make, adopt, and amend rules and regulations appropriate to the carrying out of this Chapter 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 a duly authorized agent or other employees of the Town;
4. To assess, reassess, determine, revise and readjust the taxes imposed by this Chapter; and
5. To prescribe methods for determining the taxable and nontaxable rents.

**SECTION 7-720**      **OATHS AND TESTIMONY**

A. The Treasurer, or employees or agents of the Town, duly designated and authorized by him, shall have the power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this Chapter. The Treasurer shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this Chapter and to examine them in relation thereto.

B. Any person who shall refuse to testify or to provide books or records, or who shall testify falsely in any material matter pending before the Treasurer, shall be guilty of an offense punishable as provided in Section 1-108 of this Code. (Ord. No. 94-6, 6/5/95)

**SECTION 7-721**      **REGISTRATION**

Every operator shall file with the Treasurer a Certificate of Registration in a form prescribed by the Treasurer within ten (10) days after the effective date of this Chapter, or in the case of operators commencing business or opening new hotels or motels after such effective date, within three (3) days after such commencement or opening. The Treasurer 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 or motel. Each Certificate or duplicate shall state the hotel or 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 come to the notice of all occupants and persons seeking occupancy. Such Certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the hotel or motel named, or upon its sale or transfer.

**SECTION 7-722**      **INTEREST AND PENALTIES**

A. If an operator fails to file a return to remit the taxes due prior to the twenty-sixth (26<sup>th</sup>) day of each month, in addition to one hundred percent (100%) of the taxes due, the operator shall pay the following interest and penalties:

1. One and one-half percent (1 ½%) interest per month on the total amount of taxes due from the twenty-sixth (26<sup>th</sup>) day of the month to the date of filing;
2. In addition to the interest, if a return is not filed and the total amount of taxes due remitted within thirty (30) days from such twenty-sixth (26<sup>th</sup>) day of the month, a penalty of ten percent (10%) of the total amount of the taxes due; but if a return is filed and the total amount of the taxes paid after thirty (30) days from such twenty-sixth (26<sup>th</sup>) day of the month, the penalty shall increase to twenty-five percent (25%) of the total amount of taxes due.

B. Any operator or occupant willfully failing to file a return required by this Chapter, or filing or causing to be filed, or making or causing to be made, or causing to be given, any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this Chapter which is willfully false, and any operator willfully failing to file a bond required to be filed pursuant to this Chapter, or willfully failing to file a Registration Certificate and such data in connection therewith, as the Treasurer may by regulation or otherwise require, or to display or surrender the Certificate of Authority as required by this Chapter, or assign or transfer such Certificate of Authority, and any operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect tax from the occupant, and any operator who shall willfully refer or cause reference to be made to this tax in a form or manner other than that required by this Chapter, and any operator willfully failing to keep the records required by this Chapter, shall in addition to the penalty herein, or elsewhere prescribed, be guilty of an offense, punishable as provided in

Section 1-108 of this Code. (Ord. No. 94-6, 6/5/95)

**SECTION 7-723**      **RECORDS CONFIDENTIAL**

The confidential and privileged nature of the records and files concerning the administration of this tax is hereby recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of this tax as if here set forth in full. (Ord. No. 94-6, 6/5/96)

**SECTION 7-724**      **AMENDMENTS**

The citizens of the Town by their approval of this Chapter at the election herein provided hereby authorize the Town Board of Trustees, by ordinance duly enacted, to enter into an agreement with other parties to carry out the intent and purpose of this Chapter, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Chapter 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 Town as provided by law. (Ord. No. 94-6, 6/5/95)

**SECTION 7-725**      **PROVISIONS CUMULATIVE**

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of Town ordinances. (Ord. No. 94-6, 6/5/95)

**SECTION 7-726**      **CREATION OF FUND**

The first five percent (5%) of all taxes levied and collected pursuant to this Chapter shall be deposited into the General Fund of the Town and shall be available to pay expenses incurred by the Town in the enforcement of this Chapter. "Enforcement" as used by this Chapter shall include expenses incurred in monitoring the collection, expenditure and auditing of the hotel/motel tax. (Ord. No. 94-6, 6/5/95)

**SECTION 7-727**      **EFFECTIVE DATE, TERM**

This Chapter shall become effective on and after April, 4, 1995, subject to approval of a majority of the registered voters of the Town voting on same in the manner prescribed by State Law.

