

**CHARTER OF THE CITY OF
ELK CITY, OKLAHOMA**

PREAMBLE

We, the people of the City of Elk City, in order to secure the full benefits from the home rule provisions of the Constitution of the State of Oklahoma, do ordain and establish this Charter for the City of Elk City.

Article 1. Corporate Powers

Section 1. Incorporated and Corporate Powers.

The inhabitants of the City of Elk City, within the boundaries as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name the City of Elk City, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued, may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of the State of Oklahoma or restricted by this Charter, the City of Elk City shall have all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

Section 2. Enumerated Powers Not Exclusive.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the City of Elk City shall have, and may exercise, all powers which, under the Constitution of the State of Oklahoma, it would be competent for this Charter specifically to enumerate. All powers of the City, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the commission.

Section 3. Boundaries.

The boundaries of said City, and the respective wards thereof, shall until altered as provided by law or ordinance be the same as at the time of adoption of this Charter.

Section 4. Constitution Applied.

Article Eighteen of the Constitution of the State of Oklahoma, under the title "Municipal

Corporations”, and every section thereof, including the Initiative and Referendum and all other provisions and sections of said Article Eighteen, is hereby adopted and made in full force and effect for the government of the City of Elk City.

ARTICLE II. The Commission

Section 5. Creation and Composition of the Commission.

Except as otherwise provided in this Charter, all powers of the City shall be vested in a commission composed of a Mayor and four Commissioners. The Mayor shall be nominated by wards and elected at large. The term of the Mayor shall be two years and the term of the Commissioners shall be four (4) years and until their successors are elected and qualified. The terms of the Mayor and Commissioners shall begin on the day of the first regular meeting of the commission after their election. The Commissioners elected at the first election from wards number One and Four shall hold their office for two years, after which their successors shall be elected for a four-year term. Members of the commission shall be qualified electors of the City and shall not hold any other public office except that of Notary Public or member of the state militia. A member of the commission ceasing to possess any of the qualifications specified in this Section or convicted of crime while in office shall immediately forfeit his office. All members of the commission shall serve without compensation.

Section 6. Meeting of the Commission.

At eight p.m. on the first Monday following a regular municipal election, the commission shall meet at the usual place for holding its meeting and the newly elected members shall after qualifying assume the duties of office. Thereafter the commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Until otherwise provided by ordinance, they shall meet regularly on the first Monday of each month at the usual hour and place. Special meetings shall be called by the City Clerk upon the written request of the Mayor, the City Manager, or two (2) members of the Commission. Any such notice shall state the subject to be considered at the special meeting, and no other subject shall be there considered. Before the action taken at a special meeting shall be valid, the record must show the members of the commission present, the members absent, that each absent member had notice of the meeting and its purpose, and the notice itself must be spread upon the record. All meetings of the commission and of committees thereof shall be open to the public, except only as provided by the Oklahoma Open Meetings Act, as from time to time amended, and the rules of the commission shall provide that citizens of the City shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat.

Section 7. Mayor and Mayor Pro Tem.

The Mayor shall preside at all meetings of the commission and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon the Mayor

by this Charter and the Ordinances of the City. The Mayor shall be recognized as the head of the City government for all ceremonial purposes, by courts for serving civil process, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor shall, if so authorized and directed by vote of the commission, declare an emergency and assist in coordinating emergency services with the City Manager and/or designated emergency management officer. The commission shall choose one of their number or any qualified elector as Mayor Pro Tem to act in case of a vacancy in the office of Mayor or in case of absence or disability of the Mayor.

Section 8. Commission Rules.

The commission shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its member for disorderly behavior, and by vote of not less than four members may expel a member for disorderly conduct or violation of its rules, but no member shall be expelled unless notified of the charge against him and given an opportunity to be heard in his own defense.

Section 9. Quorum.

A majority of the members selected to the commission shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the commission shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or to compel the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved. Upon every vote the ayes and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the final vote is taken thereon. Every resolution or ordinance passed by the commission must be signed by the Mayor or by the Mayor Pro Tem, when so acting, and be recorded and every ordinance published before the same shall be in force, except as otherwise hereinafter provided.

ARTICLE III. Ordinances

Section 10. Ordinances.

- a. Caption. The style of all ordinances shall be, "BE IT ORDAINED BY THE COMMISSION OF THE CITY OF ELK CITY," but may be omitted when said ordinances are revised and digested under the order of the commission, or when they are published in book form.

b. Contents. Repealed Ordinances not Revived by Reference to Title Only. Every ordinance adopted by the commission shall embrace but one subject, which shall be clearly expressed in its title. No repealed ordinance shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published either by title and summary or at length; provided that if any subject be embraced in any ordinance contrary to the provisions of this Section such ordinance shall be void only as to so much of the ordinance as may not be expressed in the title thereof. The Commission shall have power by ordinance to provide for revision or ordinance and its publication, and nothing in this charter shall operate as a limitation upon that power.

c. When Effective. All ordinances, except emergency ordinances, shall take effect and become valid at the end of thirty (30) days from the date of passage of such ordinances. All ordinances shall be published either by title and summary or at length at least once in a daily or weekly newspaper of general circulation in the City of Elk City, such publication to be within fifteen (15) days from passage of the ordinance, except as otherwise provided by the Constitution and laws of this State.

d. When to be Adopted. No ordinance shall be adopted on the day of its introduction before the Commission; but all ordinances, after being introduced, shall lay over for at least one (1) week before being finally voted on and adopted, provided however, this provision shall not apply to emergency ordinances.

e. Emergency Ordinances. The commission, by a vote of 3/4ths of all members, may pass an emergency ordinance when the public peace, the public health, or the public safety of the City, or the inhabitants thereof, shall in the judgment of the commission demand it. Every emergency ordinance must, after the title, contain the words, 'EMERGENCY ORDINANCE,' as a part of the caption, and every such ordinance shall in a separate section briefly state the facts or the cause affecting the public peace, public health, or public safety and demanding passage of the emergency ordinance. All emergency ordinances shall take effect at once upon their passage.

f. Enrollment. Every ordinance passed by the commission shall be enrolled by the City Clerk within the next succeeding five (5) days, or as soon thereafter as practicable. The enrolled copy shall be carefully compared with the ordinance and amendment, if any, by the Mayor, who shall endorse on the enrolled copy, "Correctly Enrolled," with the date thereof, and subscribed his name thereto.

g. Evidence. All printed ordinances of codes or ordinances published by authority of the commission, shall, in all judicial proceedings in all court, be

admitted in evidence with the same force and effect as would original ordinances, and in such proceedings it shall not be necessary to plead the entire ordinance or section, but only such parts thereof as are offered in evidence.

ARTICLE IV. Nominations and Elections

Section 11. Municipal Elections.

A municipal election, at which members of the commission shall be elected, shall be held on the first Tuesday in April, 1931, and the first Tuesday in April every two (2) years thereafter, which shall be known as the regular municipal election. All other municipal elections that may be held shall be known as special municipal elections.

Section 12. Nomination by Petition.

The mode of nomination of candidates for the commission provided by this Charter shall be by petition. The electors of each ward shall nominate their respective candidates for commissioner and the electors of the City shall nominate the candidates for mayor. The name of any candidate shall be printed upon the ballot whenever a petition as hereinafter described shall have been filed in his behalf with the election authorities. A petition for commissioner shall be signed by not less than twenty-five (25) electors residing in the respective wards, and a petition for mayor shall be signed by not less than fifty (50) electors residing in the City. No elector shall sign more than one (1) such petition for the same office, and should an elector do so, his signature shall be void as to the petition or petitions last filed.

Section 13. Signatures to and Form of Nomination Papers.

The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purport to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

We, the undersigned, electors of the City of Elk City hereby nominate _____, whose residence is _____, for the office of (commissioner) (Mayor) to be voted for at the election to be held in the City of Elk City, on the _____ day of _____, _____; and we individually certify that we are qualified to vote for a candidate for the office named and that we have not signed any other nomination petition for that office.

Name: _____

Street and Number: _____
(Space for Signatures)

State of Oklahoma)
) ss.
County of Beckham)

_____, being duly sworn, deposes and says that he is the circulator of the foregoing petition paper containing _____ signatures, and that the signatures appended thereto were made in his presence and are the signatures appended whose names they purport to be, and that in his opinion they are all and severally qualified voters for the said election.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

This petition, if found to be insufficient by the election authorities, shall be returned to _____ at No. _____ Street.

Section 14. Filing and Verification of Nomination Papers.

All nomination papers comprising a petition shall be assembled and filed with the election authorities, as one instrument, not earlier than forty-five (45) days nor later than fifteen (15) days before the election. Within five (5) days after filing of a nomination petition the election authorities shall notify the person who filed such petition whether or not it is found to be signed by the required number of qualified voters. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time allowed for the filing of petitioners such petition may be amended and filed against as a new petition or a different petition may be filed again for the same candidate. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballot if within five (5) days after notification to him by the election authorities he shall have filed with such authorities a written acceptance of the nomination. The petition of each person nominated to be a member of the commission shall be preserved by the election authorities until the expiration of the term of office for which he has been elected.

Section 15. Regulation of Elections.

In all general and special municipal elections, the general election laws of the State of Oklahoma relative to municipal elections shall be applicable and are hereby adopted and put in full force and effect, subject to the provisions of this Charter. Provided, that all powers under these laws are to be exercised exclusively by the commission, and that no state or county officials shall have any power, duties or rights whatsoever in any municipal election except only as authorized by ordinance. The commission shall have power by ordinance to change the municipal election laws in any manner and at all time that they may deem proper. All petitions and election ballots shall be non-partisan in form and without any party designation.

Each elected official shall file with the City Clerk within sixty (60) days of election all financial reports and other reports as may be required by the campaign ethics laws of the State of Oklahoma and upon failure to do so shall be subject to recall election as hereinafter provided.

Section 16. Recall Provisions.

Any member of the commission may be removed from office by special recall election, as herein set forth.

Any elector of the City may make and file with the City Clerk an affidavit containing the name or names of any member or members of the commission whose recall is sought, and a statement of the grounds for recall. The Clerk shall thereupon deliver to the elector making such affidavit copies of the petition blanks demanding a recall election, printed forms of which he shall keep on hand. Such blanks shall be issued by the Clerk with his signature and official seal thereto attached; they shall be dated and addressed to the commission and shall contain the name of the member whose recall is sought. A copy of the petition shall be entered in a record book to be kept in the office of the Clerk. The recall petition to be effective must be returned and filed with the Clerk within thirty (30) days after the filing of the affidavit. To be effective the petition must also bear the signatures of electors of the City to the number of at least forty (40%) percent of the number of electors who cast their vote at the last preceding regular municipal election. To every signature on the petition shall be added the place of residence of the signer, the street and number of other designation sufficient to identify the place. Such signatures need not all be one paper, but the circulator of each such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the persons whose name it purports to be. All such recall petition papers shall be filed as one (1) instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same.

On receiving the recall election petition, the City Clerk shall examine it promptly. If the Clerk finds it to be sufficient according to the provisions of this Section, the Clerk shall certify that fact to the commission, which within ten (10) days shall call a special election to be held within thirty (30) days from the time when the petition was filed. Upon return of a majority vote, the member whose recall is demanded shall be deemed removed from office.

Section 17. Vacancies in Elective Office.

Vacancies in the office of commissioner or mayor shall exist when such officer dies, resigns, moves out of the City, is recalled or otherwise disqualified. Appointments to fill vacancies in elective office shall be made by the commission, and such appointee shall possess all the qualifications required by this Charter for the respective office and hold his office until the next regular election, at which time his successor shall be elected for the unexpired term.

ARTICLE V. The City Treasurer

Section 18. The City Treasurer.

There shall be a City Treasurer whose appointment on the basis of education and training shall be made and compensation determined by the commission for an indefinite period and shall be removable at the pleasure of the commission. He shall have the custody of the funds of the City, and shall pay out the same only upon order of the commission, attested by the City Clerk and signed by the mayor. He shall under the direction of the commission, invest the funds of the City only in such securities as are provided by the Constitution and the laws of the State of Oklahoma for the investment of the school funds of the State; and all uninvested funds shall be deposited in the City depository, or depositories.

The City depository, or depositories, shall be responsible banking institutions designated by the city manager in accordance with such regulations, and subject to such requirements as to security therefore and interest thereon, as the commission may by order establish. All interest on money so deposited shall accrue to the benefit of the City.

The City depository shall secure the City for all deposits by giving a good sufficient bond with an approved company, qualified to do business in the State of Oklahoma, as surety. Said bond to equal the sum of the probably maximum deposits of the City at one time with said depository, and a new bond may be required by the commission at any time when the existing bond or bonds shall be deemed insufficient; provided that the commission shall have power to take from such depository in lieu of such bond, any approved securities or obligations properly assigned to be held by the City Treasurer as collateral security, and to the extent of the par value of such securities or obligations, the said depository shall be released from the above-required surety bond.

ARTICLE V(A). The City Attorney

Section 18A. The City Attorney.

The City Attorney shall furnish legal representation to the City of Elk City as a municipal corporate entity. It shall be the duty of the City Attorney to render legal advice on manners

referred by the City Manager and/or the commission affecting the municipality, the powers of any municipal officials or employees, or the performance of their duties, and perform such other duties of an attorney for the City as the City Manager may request or the commission may require. The City Attorney shall be nominated by the City Manager and shall be appointed and removed at the pleasure of the commission.

ARTICLE VI. The City Manager

Section 19. The City Manager.

The commission shall appoint a City Manager. He shall be chosen by the commission solely on the basis of his executive and administrative qualifications. He shall be appointed for an indefinite period and shall be removable at the pleasure of the commission, by a majority vote thereof. He shall receive a compensation to be prescribed by the commission.

The City Manager shall be the administrative head of the municipal government. He shall not during his term of office be an employee of or perform any executive duty for any person, firm, entity or institution other than the City of Elk City, except only as may be specifically authorized by the Commission, and shall not be interested, directly or indirectly, in the profits or emoluments of any contract, job, work or service for the City.

The City Manager shall have the special powers and duties herein enumerated, and shall be directly responsible to the commission for the property administration thereof, to-wit:

- (a) To see that all laws and ordinances governing the City are enforced.
- (b) To appoint and remove, at pleasure, in accordance with policies and procedures approved by the commission, all officers and employees, except the Mayor, the Commissioners, the Treasurer and the City Attorney, as are now or may hereafter be created by the authority of this charter. He shall determine, with the approval of the commission, the compensation for all officers whom he appoints.
- (c) To exercise actual management, control and supervision over all departments of the City government, municipal trusts and municipal authorities.
- (d) To supervise and manager all public works of the city and the repair and maintenance thereof;

- (e) To make a monthly report to the commission, and to attend all meetings of the commission with the right to take part in the discussion but having no vote.
- (f) To recommend to the commission for adoption such measures as he may deem necessary or expedient.
- (g) To keep the commission fully advised as to the financial condition of the city.
- (h) To see that all franchise rights and provisions are justly enforced.
- (I) To prepare and submit to the commission an annual budget in a manner and at a time provided by the commission.
- (j) To submit to the commission at each meeting thereof an order of business covering his recommendations.
- (k) To create, with the approval of four-fifths of the commission, departments, or subdivisions thereof, combine or abolish existing departments, and distribute the functions thereof, or establish temporary departments for special work.
- (l) To be Purchasing Agent of the City and shall procure all equipment goods and supplies in accordance with state procurement laws and such procurement rules and policies as may be established by the commission.

Section 20. (Transition Provision, Repealed by vote of electors on _____, 2010.)

ARTICLE VII. Miscellaneous

Section 21. Official Bonds.

The City Manager, the City Treasurer, the City Clerk and such other officers or employees as the commission may require so to do, shall give bonds in such amounts and with such surety as may be approved by the commission. The premiums on such bonds may be paid by the City.

Section 22. Oath of Office.

Every member of the commission, the City Manager, the City Treasurer, the City Attorney, the City Clerk, and the head of every department shall, before entering upon the duties

of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Clerk:

“I solemnly swear (or affirm) that I will obey the Constitution and Laws of the United States and of the State of Oklahoma, that I will, in all respects, observe the provisions of this Charter and the Ordinances of the City of Elk City and faithfully discharge the duties of the office of _____.”

Section 23. Officers or Employees to have no Interest in any City Contract.

No officer or employee of the city, elective or appointive, shall be interested, directly or indirectly, in any contract with the City, or own an interest in any entity having any contract, subcontract or other transaction with the City, and all such contracts shall not be valid as against the City.

Section 24. Nepotism Prohibited.

No person who is a relative by blood or marriage within the third degree of any of the commissioners or the City Manager shall be appointed to any city office or employment.

Section 25. Mayor or Commissioners Cannot Accept Employment or Newly Created Office.

No elected official shall be appointed to any office created by the commission during the term of office of such official nor employed in any position until the expiration of one (1) year after expiration of such term of office or of vacating office.

Section 26. Officers may Administer Oaths.

The Mayor, Municipal Judge, and the City Clerk shall have the power of administer oaths.

Section 27. Claims Against the City.

All claims against the City must be filed with the City Clerk in writing with a full account of all items thereof and must be subscribed by the claimant, his agent or attorney, who on oath shall declare that the same is correct, just, due, and unpaid and that all credits have been entered thereon; and no claim or demand shall be allowed or suit filed thereon unless so prepared and filed.

Section 28. Individual Liability of Officers.

Every officer who shall approve, allow or pay any demand on the treasury of the City, not authorized by law, ordinance, or this Charter, shall be liable to the City individually and on his official bond for the amount of the demand so illegally approved, allowed, or paid.

Section 29. Auditing of Accounts and Publication of Same.

At the end of each fiscal year, and at such other times as it may deem necessary, the commission shall cause a full and complete examination of all the books and accounts of the City, including the accounts of municipally owned utilities, to be made by a competent certified accountant, and shall publish notice of the results of such examination in some newspaper of general circulation in the City.

Section 30. Undue Influence.

No member of the commission shall recommend to the City Manager, directly or indirectly, any person for appointment, except upon the request of the City Manager. Nor shall they discuss with him any matters or contract outside of the regular meetings of the commission, except upon his request.

Section 31. Former Government in Force.

All existing ordinances of the City, not inconsistent with this Charter or inapplicable under the altered form of municipal government provided by this Charter, shall be and continue in full force and effect until amended or repealed or until they expire by their own limitations, and no existing right, action (civil or penal), suit proceeding, or contract, shall be affected by the change in the form of government of the City; and all debts, penalties and forfeitures which have accrued, or which may hereafter accrue by virtue of anything heretofore done or existing, shall inure to the benefit of the City of Elk City and may be sued for and recovered by the said City as though this Charter had not been adopted. Nothing herein, however, shall legalize or make legal any invalid indebtedness of the City heretofore instituted relating to the levy and collection of taxes, special assessments, or levies of any nature, or with any proceedings to enforce the payment of the same, and all valid contracts heretofore entered into by the City shall remain in full force and effect and be completed under the ordinances existing at the time of the adoption of this Charter.

Section 32. Amendment and Repeal.

This Charter may be amended at any time by initiative referendum as provided by the Constitution and laws of the State of Oklahoma at an election at which the proposed amendment is submitted to a vote of the qualified electors of the City, by a majority vote of such electors voting at such election on such proposed amendment. The commission may propose and submit

any amendment to this Charter to a vote of the qualified electors of the City at any general or special election.

Section 33. Franchises.

All grants and renewals of franchises and privileges shall reserve to the City the right to terminate the same and to purchase all the property of utility in the streets, avenues, alleys and public places in the City and elsewhere, as may be provided in the franchise making the grant or renewal, used in or useful for the operation of the utility at such prices as may be agreed upon between the owner and the City and in the event of disagreement the same may at the option of the City be submitted to arbitration under the arbitration laws of the State of Oklahoma; or in the event no arbitration agreement can be reached, then the City may obtain such property by condemnation under the eminent domain laws of the State of Oklahoma.

No franchise making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation, or otherwise, shall exclude all value of such grant or renewal.

Section 34. Saving Clause.

If any section or part of a section of this Charter is determined by a court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except insofar as such other sections or part of a section is dependent for its operation upon the section so held to be invalid.

Section 35. Apportionment of Mineral Income.

All revenue derived from the sale, marketing, development, and production of oil and gas and other minerals from real property owned by the City of Elk City shall be apportioned in the following manner by the governing body of said City: 75 percent of all funds so received shall be deposited by the City Treasurer in the Sinking Fund of the City of Elk City, to be used to retire bonded indebtedness and judgment indebtedness of said City; and 25 percent of all funds so received shall be deposited by the City Treasurer of said City to the General Fund of said City to be used and spent by the Governing Body of said City. (Approved by vote of electors July 18, 1950.)