

CHAPTER 1

ADMINISTRATION AND MANAGEMENT

- Article 1. Incorporation; Form of Government; Powers
- Article 2. Municipal Elections
- Article 3. City Commission
- Article 4. Officers and Employees
- Article 5. Financial and Business Procedures
- Article 6. Sales Tax
- Article 7. Firemen's Pensions.
- Article 8. Policemen's Pensions.
- Article 9. Social Security.
- Article 10. Telephone Inspection Fee.
- Article 11. Cable Television; Licenses; Fees.
- Article 12. Gross Receipts Tax.
- Article 13. Municipal Use Tax.
- Article 14. Miscellaneous Provisions.

Article 1. Incorporation; Form of Government; Powers

Section 1-1. Incorporation.

The City of Elk City, Oklahoma, within the corporate limits as now established or as hereafter may be established, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Elk City, Oklahoma." It shall succeed to and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the corporation known as the City of Elk City, Oklahoma, and shall be liable for all debts and other obligations for which the corporation is now legally bound.

Section 1-2. Form of Government.

The municipal form of government for the City of Elk City shall be the City Commission-City Manager form of government as created by charter duly voted on and adopted by the Citizens of Elk City. All powers of the municipality shall be exercised in the manner prescribed by this Code of Ordinances, future Ordinances or applicable state law; provided that this Code and all future Ordinances are not repugnant to the State Constitution, applicable State Law, or the Charter of Elk City, Oklahoma.

Section 1-3. General Powers of the Municipality.

1. The City of Elk City, Oklahoma, shall have all the power, functions, rights, franchises and immunities specifically granted to municipalities, or not prohibited by the State Constitution and applicable Laws, or by the Charter of the City of Elk City, Oklahoma.

2. The City of Elk City, Oklahoma, shall have the power to adopt a corporate seal and alter the same, to sue and be sued, to make contracts and to grant, extend and renew franchises. It shall have the power to issue bonds, in accordance with the State Constitution and Laws. It shall have the power, in accordance with the State Constitution and Laws, to accept and administer Federal and State grants-in-aid. It shall have the power to ordain and enforce local legislation, consistent with the State Constitution and Laws and the Charter of Elk City, Oklahoma, for the proper organization and functioning of municipal government, for the preservation of health, life, peace, safety, morals and property, for the prevention, summary abatement and removal of nuisances, and otherwise for the promotion of the common welfare.

3. The enumeration of particular powers in this Code of Ordinances shall not be deemed exclusive or limiting. In addition to the powers enumerated herein or implied hereby, the City of Elk City, Oklahoma, shall have all powers which, under the State Constitution and Laws and the Charter of the City of Elk City, it would be competent for this Code of Ordinances specifically to enumerate.

Sections 1-4 through 1-9. (Reserved for future use.)

Article 2. Municipal Elections

Section 1-10. Municipal Elections.

(See Elk City Charter, Appendix 1, Article IV and Ordinance 917 [03/16/94] and Ordinance 935 [09/05/95].)

Section 1-11 through 1-24. (Reserved for future use.)

Article 3. City Commission

Section 1-25. Creation and Composition of the Commission.

Except as otherwise provided in this Code and City Charter, all powers of the City shall be vested in a Commission composed of a Mayor and four (4) Commissioners. The Mayor shall be

nominated by wards and elected at large. The term of the Mayor shall be two (2) years and the term of the Commissioners shall be four (4) years and until their successors are elected and qualified. The term 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 (4) 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 a felony while in office, shall immediately forfeit his office. All members of the Commission shall serve without compensation.

Section 1-26. Meeting of the Commission.

1. For the purposes of this Section, the following words, terms, and phrases shall have the meanings indicated herein below:

- a. Meeting means the conducting of business of a public body by a majority of its members being personally together.
- b. Regularly scheduled meeting means a meeting at which the regular business of the public body is conducted.
- c. Emergency meeting means any meeting called for the purpose of dealing with an emergency. For purposes of this act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss.
- d. Continued or reconvened meeting means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda for the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting.

2. 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.

3. Municipal business of the City Commission shall be conducted at regularly scheduled, open and public meetings held in City Hall (or other agreed upon place which is open to the public) on the first Monday, beginning at 7:00 o'clock p.m., and the third Wednesday, beginning

at 2:00 o'clock p.m., of each month or, in the event of conflict with a holiday, on the next following day which is not a holiday, except when a special or emergency meeting is deemed necessary by the Mayor, City Commission or City Manager.

4. An agenda for each regularly scheduled meeting of the City Commission shall be prepared and shall be publicly posted in accordance with the Oklahoma Open Meeting Act (25 O.S., 1981 ss 301-314).

5. If any change in the date, time, or place of a regularly scheduled meeting is made, notice of the change shall be given to the City Clerk no less than ten (10) days prior to the implementation of such change, and the Clerk shall publicly post a notice of the change.

6. In all meetings of the City Commission, the vote of each member must be publicly cast and recorded.

7. No informal gatherings or any electronic or telephonic communications among a majority of the Commissioners shall be used to decide any action or to take any vote on any matter.

8. The Clerk shall prepare a schedule of all meetings prior to each calendar year and shall post this schedule in the City Hall prior to December 15 preceding the calendar year for which the schedule has been determined.

9. Special meetings of the Commission shall be called by the City Clerk upon the written request of the Mayor, the City Manager or two 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.

a. Special meetings shall not be held without public notice being given at least forty-eight (48) hours prior to said meeting, shall be given in writing, in person, or by telephonic means to the City Clerk.

b. At least twenty-four (24) hours prior to the special meeting, a written public notice of the special meeting shall be prominently posted in the city hall. Such notice shall include the date, time, place, and agenda for the special meeting, and only items appearing on the agenda shall be considered at the meeting. The twenty-four (24) hours public posting shall exclude Saturdays, Sundays, and holidays legally declared by the State of Oklahoma.

10. In the event of an emergency, an emergency meeting of the City Commission may be held without public notice required. Should an emergency meeting be required, as much advance

public notice as is reasonable and possible under the circumstances existing shall be made in person or by telephonic or electronic means.

Section 1-27. 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 members 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. The rules of the Commission shall provide that citizens of the City shall have a reasonable opportunity to be heard at any open meeting of the Commission in regard to any matter considered thereat.

Section 1-28. Quorum.

A majority of the members elected 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 published before the same shall be in force, except as otherwise hereinafter provided.

Sections 1-29 through 1-34. (Reserved for future use.)

Article 4. Officers and Employees

Section 1-35. 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 him by the City Charter and the Ordinances of the City. He shall be recognized as the head of the City government

for all ceremonial purposes, by the courts for serving civil processes, 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, take command of the Police, maintain order and enforce the law. The Commission shall choose one of their number as Mayor Pro Tem, to act in case of a vacancy in the office of Mayor or in case of his absence or disability.

Section 1-36. City Manager.

1. The Commission shall appoint a City Manager. He shall be chosen by the Commission solely upon the basis of his executive and administrative qualification. 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.

2. 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, corporation or institution in the profits or emoluments of any contract, job, work, or service for the City.

3. The City Manager shall have the special powers and duties as enumerated, by the City Charter and this Code of Ordinance and shall be directly responsible to the Commission for the proper administration, thereof. (See Charter, Article VI, Section 19.)

Section 1-37. City Treasurer.

1. The Commission shall appoint a City Treasurer, who shall be an officer of the City for an indefinite term 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.

2. The City Treasurer shall deposit daily all funds coming into his hands in such depositories as the City Manager may designate; and shall disburse such funds in the manner provided by the City Charter, Section 18. He shall have such other powers, duties and functions as may be prescribed by the City Charter, by applicable law or by ordinance.

3. The City Treasurer shall receive all moneys due the City from any and all sources (except such as are received by other officers and by them paid to the City Treasurer) and pay out the same on warrant/check ordered by the board of Commissioners, drawn, signed and attested by the City Clerk with the City Seal attached and signed by the Mayor. At the expiration of the term of his office he shall deliver to his successor in office, all moneys, books, papers and records connected with his office.

4. The City Treasurer shall keep a register of all warrants redeemed, describe each warrant/check by date, number and amount, and the name of the payee; and all warrants/checks so redeemed shall be canceled, and kept in his office. The City Treasurer shall keep in a book for that

purpose, a complete list of every bond and coupon, showing the mature date, to whom sold, the amount of the payment falling due, whether principal or interest, and showing also the date of redemption of any outstanding bond or interest coupon, the amount thereof actually paid to redeem same, and the number of the bond or interest coupon retired.

5. The City Treasurer shall keep the cash accounts of the City in a book to be kept for that purpose; which book must clearly and fully show all moneys received and disbursed by him in behalf of the City, setting forth the date of receipt, from whom received, the date of disbursement, to whom disbursed and the amount of such disbursement, and for and on what account the same was received and disbursed. The Treasurer shall issue to every person, firm or corporation from whom he received money a receipt therefore, which shall show the fund to which said money is to be applied, the purpose of the collection and one copy of said receipt shall be retained by the Treasurer, and a copy thereof furnished to the City Clerk.

6. It shall be the duty of the Treasurer, at the end of each month, to report to the board of Commissioners, a statement of the financial transactions of his office for the month then ended, which statement shall be in writing, and under his oath and shall set forth clearly and fully:

- a. The balance in the treasury at the beginning and the end of the month.
- b. The amount received during the month, and to have available an accounting of from whom and on what account received and to what fund charged.
- c. To have available the amount disbursed during the month, to whom and on what account disbursed and to what fund charged.
- d. The amount of warrants/checks redeemed during the month and from whom received and on what account drawn.
- e. The amount of bonds and interest coupons redeemed during the month.
- f. The amount of warrants/checks purchased by him with the Sinking Fund with a list thereof attached.
- g. The amount that has been credited to the respective funds which are or may hereafter be provided for by the Commission.
- h. The amount of interest, profit, compensation or money received by him, from any person, bank or corporation, for the use, control or deposit of the City funds in his charge, together with the amount of interest earned on warrants purchased with the Sinking Fund.

7. The Treasurer shall deposit all City funds in banks situated in Elk City, Oklahoma, which have been approved by the City Manager, and shall require the same security for said funds as is required by law for County deposits. He and his bondsmen shall be jointly and severally liable for

any failure to comply with these provisions in addition to all liability which might attach in the absence of these provisions. All bondsmen for the City Treasurer are charged with notice herewith and are liable accordingly, notwithstanding provisions in the bonds to the contrary. All such contrary provisions in said bonds are not binding on the City.

8. The City Treasurer shall perform such other duties as the City Manager and/or Commission may require.

Section 1-38. City Clerk.

1. There shall be a City Clerk department, the director of which shall be the City Clerk, to be appointed and removed, at pleasure, by the City Manager.

2. It shall be the duty of the City Clerk to attend all meetings of the Commission and record the proceedings, keep the proper book of account pertaining to office, record all ordinances in a separate book provided for that purpose, and in connection with the Mayor shall attest the same.

3. The City Clerk shall keep a register of claims and bills filed with him against the City, which claims shall be numbered consecutively, corresponding with the number of such claims upon the register. Said claim register shall show in one column the number of claims, and in separate columns respectively, the name of the claimant, date of filing, amount thereof, for what purpose, on what fund, date paid, and the number of the warrant by which it is paid. It shall be the duty of the City Clerk to keep all claims against one fund separate and apart from other funds and each such claim shall show upon its face the particular fund to which the same is by law chargeable. All claims against the City shall be filed with the City Clerk. The City Clerk shall draw all warrants/checks against the City Treasurer, but no warrant/check shall be drawn until first authorized by the Mayor and Commission.

4. The Clerk shall, until otherwise prescribed by the Mayor and Commission issue all licenses provided by ordinance when the proper application has been filed and the fees have been paid to him. He shall receive all money due the City from any source, when not otherwise provided expressly by law or ordinance and in each and every case shall issue his receipt for same, showing the date received, the person from whom received, the amount received and the purpose of the same.

5. The City Clerk shall have custody of all documents, records and archives of the City, as well as be custodian of the municipal seal.

6. The City Clerk shall attest and affix said seal to documents as required by charter, law or ordinance, and shall see that all ordinances passed are kept on file, in triplicate, in the office of the City Clerk.

7. The City Clerk shall have such other powers, duties and functions as may be prescribed by charter, law, and ordinance or by the City Manager.

8. The City Clerk shall perform such other duties as the City Manager may require.

Section 1-39. Police Department; Chief of Police.

1. There shall be a police department the director of which shall be the Chief of Police, to be appointed and removed, at pleasure, by the City Manager.

2. All employees (chief and officers) shall meet minimum qualifications. These include completion of evaluation similar to the Minnesota Multiphasic Personality Inventory, or its equivalent, or other evaluation as determined by the Council on Law Enforcement Education and Training and possession of a certificate attesting to satisfactory completion of a basic police course, as approved by the Council on Law Enforcement Education and Training, of not less than three hundred (300) hours. Every person who is not the holder of such certificate, and is duly appointed as a police or peace officer, shall be appointed to such position on a temporary basis only, and shall, within one (1) year from the date of appointment, qualify as required or forfeit such position. For the purpose of this Section, a police or peace officer is defined as a full time duly appointed officer who is paid for more than twenty-five (25) hours per week.

3. The Chief of Police and all police officers shall possess the powers, and be subject to the liabilities possessed and conferred by law upon sheriffs, in enforcing the City Charter and the Code of Ordinances of the City of Elk City, Oklahoma.

4. It shall be the duty of the Chief of Police and/or all police officers to bring to justice all violators of municipal Ordinances and Federal and State Laws, and to turn such violators over to the proper authorities. The Chief of Police shall serve all warrants, writs, executions and other process, properly directed and delivered to him.

5. All personal property coming into the possession of any police officer, which has been found, stolen or taken off the person, or out of the possession of, any prisoner or person suspected of, or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be delivered into the charge of the Chief of Police, who shall make a permanent, written record of said property, including the date and circumstances of the receipt thereof, the name of the person from whom it was taken (or the place where it was found), the subsequent disposal thereof, the date of sale, name and address of the purchaser and the amount for which it was sold.

6. Any personal property which remains unclaimed and in the possession of the Chief of Police, or the ownership of which is not satisfactorily established to him for a period of sixty (60) days, shall be sold and the proceeds of the sale paid over to the City Clerk, who shall issue his receipt therefore and deposit the same to the credit of the General Fund of the municipality, except for such personal property as in the opinion of the City Manager can be more advantageously used by some department or office of the municipal government. Ten (10) days before a sale of such unclaimed property, the Chief of Police shall have posted in a conspicuous place in the City Hall, notice of the time, place and manner of such sale, including the general description of the property to be sold. If, in the opinion of the City Manager, all or any portion of the personal property may be more advantageously used in any municipal department or office, he shall so instruct the Chief of

Police in writing and said Police Chief shall thereupon deliver the designated property to that department or office of municipal government and make a permanent record of its disposition.

7. Any personal property found by a person other than a public official or employee, which is delivered to any police officer for identification, if not claimed or identified within sixty (60) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof. If the finder does not request return of the property to him within such additional ten (10) days, then the Chief of Police shall sell the property as if it had been found by a public official or employee, or, on the instruction of the City Manager, deliver it to some department for its use.

8. If any property is sold as herein provided, and the owner thereof takes and recovers possession of the same from the purchaser, the amount paid therefore shall be returned to the purchaser, upon verified claim being submitted and approved by the City Manager.

9. The Chief of Police, or his designated representative, is authorized to direct any regularly-employed police officer of the City of Elk City, Oklahoma, to provide law enforcement assistance to another municipality in an emergency; provided that, a written request from an official representative of the other municipality has been received by the City of Elk City, Oklahoma.

10. While serving in said capacity (above), the City of Elk City, Oklahoma, shall provide salaries, insurance and other regular benefits to these officers.

11. The City Manager or Police Chief of the City of Elk City, Oklahoma, is authorized to request law enforcement assistance from other municipalities in emergency situations. In such cases, the assisting officers of the other municipalities shall have the same powers and duties as though employed by the City of Elk City, Oklahoma; however, salaries, insurance and other benefits shall not be paid by the City of Elk City, Oklahoma.

12. In all events, the police officers of the City of Elk City, Oklahoma, shall return to their regular duties when directed to do so by the Police Chief or City Manager or the Police Chief of the requesting municipality, whichever direction occurs first.

13. When the Police Chief shall direct, the assisting police officers of the other municipalities shall return to their own regularly-scheduled duties in their own municipalities, and those assisting police officers shall cease to have the powers and duties of police officers regularly employed by the City of Elk City, Oklahoma.

14. The Chief of Police and all police officers under the employ of the City of Elk City shall be identified by an identification card, bearing the officer's photograph, signed by the Mayor and the Police Chief, and by an official policeman's badge. The identification card and badge shall be provided to the officer by the City of Elk City and shall be surrendered by the officer whenever the individual ceases to serve as an official member of the Elk City Police Department.

15. The Chief of Police may authorize the appointment of reserve officers who shall serve

only on a part-time basis. Within one (1) year from the date of the appointment, each reserve officer shall obtain a certificate attesting the satisfactory completion of a basic reserve officer's training course of a minimum of one hundred twenty (120) hours and as approved by the Council on Law Enforcement Education and Training.

- a. Any applicant must be of reasonable health and character to become a member of the Elk City Police Reserve Force. He must maintain a residence in the Elk City area, and shall have been a resident at least 18 months.
- b. An applicant must be nominated and receive a second, then be approved by a majority of the Police Reserves. At this point, the applicant will be given to the Chief of Police for approval. After approval of the Chief of Police, all new members shall be on probation for a period of one (1) year.
- c. There shall be one (1) regular meeting and one shift worked each month. All reserves are to be present at all regular meetings, unless excused by the Senior Reserve Officer. Any member who misses two (2) consecutive meetings without being excused by the officer in charge will be automatically dropped from the rolls.
- d. Appeals--A member who has been dropped from the rolls due to a violation may appeal to the Police Chief for reinstatement.
- e. Any member who misses twenty-five percent (25%) of the meetings, drills, or schools in a one (1) year period running from January 1st to December 31st will be handled the same as in Section C. Any member who refuses to attend training classes will be dropped without appeal.
- f. Any member of the Elk City Police Reserves will be dropped from the rolls for any of the following: 1. Conduct unbecoming a Police Officer; 2. Any act of insubordination; 3. Neglect of duty; 4. Any violation of the Rules and Regulation of the Elk City Police Department; 5. Conviction of a felony; and 6. For the good of the service.
- g. The Chief of Police may appoint a reserve Police Officer to be in charge of the Reserve Officers. This appointment may be changed or terminated at the pleasure of the Chief of Police. This appointee's title shall be Sr. Reserve Officer.
- h. The Officer-in-Charge of the Police Reserves may at his pleasure appoint and/or remove assistants within the Reserves to assist him in operations of the Police Reserves.
- i. The Officer-in-Charge or his assistant(s) will handle all work schedules, training classes, or other special assignments of Reserve Officers.

- j. Probationary Reserve Officers defined as lacking their certification and still within the probationary period of one (1) year shall have limited duties and powers. They shall not be allowed to function as a single officer, rather they must be in the presence or control of a full- time officer.
- k. Reserve Officers defined as having their certification shall be recognized as having the same police powers as a full-time officer.
- l. A Reserve Police Officer shall serve on a part- time basis and shall perform his duties only while on authorized duty and not for more than twenty-five (25) hours per calendar week.
- m. Such Reserve Officers must meet the minimum requirements of Section 3311 of Title 70 of the Oklahoma State Statutes.
- n. The Reserve Organization can be dissolved by the authority of the Chief of Police or City Manager.

16. The Chief of Police and each police officer shall perform all other duties prescribed by charter, law or Ordinance.

17. The Chief of Police shall perform such other duties as the City Manager may require.

Section 1-40. Municipal Judge; Alternate and Acting Judge.

1. There shall be a Municipal Court as put into operation and continued by Resolution, duly passed and filed in accordance with State Law. There shall be one Municipal Judge of the Court, to be appointed and removed, at pleasure, by the City Manager.

2. The Municipal Judge shall be at least Twenty-Five (25) years of age, have a high school education (or the equivalent) and be of good moral character. A Judge who is a licensed attorney may engage in the practice of law in other Courts, but he shall not accept employment inconsistent with his duties as a Municipal Judge or arising out of facts which give rise to, or are connected with, cases within the jurisdiction of the Court pending therein or which might become the subject of the proceedings therein.

3. If the Judge of the Municipal Court is not a licensed attorney and has not complied with statutory judicial education requirements, the trial shall be to the Court, and the Court shall not impose a fine which exceeds Fifty Dollars (\$50.00), plus costs and may not order the Defendant imprisoned, except for the non-payment of fines or costs, or both. If however, the Judge of the Municipal Court is not a licensed attorney but has complied with statutory judicial education requirements, a jury trial may be held under appropriate circumstances as specifically provided in this Code of Ordinances and the Court may impose a maximum fine of Five Hundred Dollars (\$500.00) plus costs and may not order the Defendant imprisoned, except for the non payment of

finest or costs or both. If the Judge of the Municipal Court is a licensed attorney, the Court may impose a fine, order the Defendant imprisoned, or may impose both fine and imprisonment.

A term of imprisonment shall not exceed sixty (60) days. The maximum fine or deferral fee in lieu of fine for speeding or parking traffic offenses shall not exceed Two Hundred Dollars (\$200.00). For all other offenses, the maximum fine or deferral fee in lieu of fine shall not exceed Seven Hundred Fifty Dollars (\$750.00).

In the event a deferred sentence is imposed, an administrative fee not to exceed Five Hundred Dollars (\$500.00) may be imposed as costs in the case, in addition to any deferral fee and routine court costs.

In all prosecutions of the Municipal Court for any offense for which the punishment sought, with the concurrence of the Court, is more than Five Hundred Dollars (\$500.00), excluding courts costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be held unless waived by the Defendant and the City. In prosecutions for all other offenses, or in cases wherein a jury trial is waived, the trial shall be to the Court.

Appeals from a Final Judgment of the Municipal Court shall be taken in accordance with State Law.

4. The Judge of the Municipal Court shall receive a salary as prescribed by the City Manager, paid in the same manner as the salaries of other Municipal employees.

5. The Municipal Judge may prescribe rules, consistent with the State Constitution and Laws and this Code of Ordinances, for the proper conduct of business of the Municipal Court.

6. There may be appointed an Alternate Judge of the Municipal Court possessed of the same qualifications as the Municipal Judge.

a. His appointment shall be for the same term and made in the same manner as the Municipal Judge. He shall sit as Acting Judge of the Municipal Court in any case if the Municipal Judge is absent from the Court, unable to act as Municipal Judge in a case.

b. If, at any time, there is no Municipal Judge or Alternate Judge, duly appointed and qualified, available to sit as Municipal Judge, the City Manager may appoint some person possessing the qualifications required by this Chapter for the Municipal Judge, who shall preside as Acting Judge over the Municipal Court in the disposition of pending matters until such time as a Municipal Judge or Alternate Judge shall be available.

7. An Alternate Judge or an Acting Judge shall be paid, as prescribed by the City Manager, for each day devoted to the performance of his duties, except that, for any month, the total payments so calculated shall not exceed the salary of the Municipal Judge in whose stead he sits. An

Alternate or Acting Judge who sits for an entire month shall receive the amount specified by the City Manager as the salary of the Municipal Judge in whose stead he sits.

8. Judges shall be subject to removal from office by the City Manager, for the causes prescribed by the State Constitution and Laws for the removal of public officers. Provisions of the Oklahoma Administrative Act governing individual proceedings (Title 75, Oklahoma Statutes, Sections 309-317 and any amendments or additions thereto in effect at the time of the hearing) shall govern removal proceedings hereunder so far as they can be made applicable.

9. A vacancy in the Office of the Municipal Judge shall occur if the incumbent dies, resigns, ceases to possess the qualifications for the office or is removed. Upon the occurrence of a vacancy in the Office of Municipal Judge, the City Manager shall appoint a successor to complete the unexpired term, using the same procedure as for original appointment.

Section 1-41. City Attorney.

1. The City Attorney shall be appointed and removed at pleasure, by the City Manager, and receive a salary as prescribed by the City Manager and paid in the same manner as other municipal employees.

2. It shall be the duty of the City Attorney to give legal advice on questions submitted to him by the City Manager and/or City Commission, when the subject matter concerns the powers of any municipal officials or employees, or the performance of their duties.

3. The City Attorney shall draw such ordinances, resolutions, notices, forms, leases, deeds, papers or other documents as may be required of him by the City Manager and/or City Commission.

4. The City Attorney shall be authorized to appear, prosecute and defend all actions wherein the City of Elk City, Oklahoma, is a party, and he shall institute proceedings in courts of law upon the order of the City Manager and/or City Commission.

5. The City Attorney shall be allowed actual and necessary traveling and hotel expenses while outside the City of Elk City, Oklahoma, and on official business for said City; provided that, his business has been approved and directed by the City Manager and/or City Commission.

6. The City Attorney shall perform such other duties as the City Manager may require.

Section 1-42. Fire Chief.

1. There shall be a Fire Department the director of which shall be the Fire Chief, to be appointed and removed, at pleasure, by the City Manager.
2. Duties of the Fire Chief shall include:
 - a. The Fire Chief shall have supervision and control of the Fire Department, subject to the State Law, the provisions of this Chapter, and other Ordinances of the City.
 - b. The Fire Chief shall be held responsible for the general condition and efficient operation of the Fire Department and the training of personnel, to insure their receiving a minimum of twenty-four (24) hours continuing education and any other training required by State Statutes.
 - c. The Fire Chief shall see that all fire fighters receive Fire Fighter I training within six (6) months from date of hire.
 - d. The Fire Chief shall inspect, or cause to be inspected by members of the Department, the fire hydrants and water supply sources of the City at least once (1) each year;
 - e. The Fire Chief shall maintain a library or file of publications on fire prevention and fire protection;
 - f. The Fire Chief shall make every effort to attend all fires and direct and have complete charge of the officers and members of the Fire Department in the performance of their duties;
 - g. The Fire Chief shall ensure that the City Commission and the City's citizens are kept informed on fire hazards in the community and on the activities of the Fire Department;
 - h. The Fire Chief shall see that each fire is carefully investigated to determine its cause and, in the case of incendiarism, shall notify proper authorities and secure and preserve all possible evidence for future use in the case;
 - i. The Fire Chief shall see that complete records are kept of all fires, inspections, apparatus, equipment, and personnel;
 - j. The Fire Chief shall file the appropriate fire loss reporting forms with the State Fire Marshal's office in Oklahoma City each quarter of the calendar year. The report shall include notification of all fire-related deaths in his

jurisdiction and of fire fighter injuries, in the line of duty, requiring the services of a physician.

- k. The Fire Chief shall perform such other duties as the City Manager may require.

Section 1-43. Assistant Fire Chief; Other Officers.

1. The Assistant Fire Chief of the Fire Department shall be appointed by the Fire Chief. In the absence of the Fire Chief, the Assistant Fire Chief shall command the Fire Department and be held responsible therefore in all respects, with the full powers and responsibilities of the Fire Chief. (See Chapter 8, this Code of Ordinances).

2. The officers of the Fire Department shall be selected upon their ability to lead men and their knowledge of fire- fighting and fire-fighting equipment.

3. One (1) member elected by the members of the Fire Department shall be Secretary-Treasurer. His duties shall consist of calling the roll at each meeting, keeping the minutes of each meeting and collecting any money due said Department by the members.

Section 1-44. Building Inspector.

1. There shall be a Building Inspector Department, the director of which shall be the Building Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Building Inspector shall be in good health and shall be physically capable of performing the duties of his office.

3. The powers and duties of the Building Inspector shall be as follows:

- a. To enforce all provisions of the Codes adopted by this Code of Ordinances;
- b. To receive and process applications required by such Codes or this Code of Ordinances;
- c. To review building permit applications, other permit applications and issue required certificates (See Chapter 4, this Code of Ordinances);
- d. To examine premises for which permits have been issued under such Codes or this Code of Ordinances and make necessary inspections to see that the provisions of the Codes or this Code of Ordinances are complied with and that construction is done safely;

- e. To investigate, when requested by the City Manager, or when the public interest so requires, matters referred to in such Codes and render written reports on the same;
- f. To issue such notices, orders or citations as may be necessary to enforce compliance with the adopted Codes or this Code of Ordinances, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction or to require adequate exit facilities in buildings and structures; and
- g. To make inspections required under the provisions of the Codes adopted by this Code of Ordinances, or to ensure that inspections are made by his duly appointed assistant.

4. During the temporary absence or disability of the Building Inspector, the City Manager may designate an Acting Building Inspector; or the City Manager may serve as Acting Building Inspector.

5. The Building Inspector, while in the discharge of his official duty, shall have the authority to enter any building or premise for the purpose of making any inspection or test of the construction or equipment contained herein or its installation.

6. The Building Inspector may also serve as any other legally established Inspector, if so designated by the City Manager.

7. The Building Inspector shall perform such other duties as the City Manager may require.

Section 1-45. Electrical Inspector.

1. There shall be an Electrical Inspector Department, the director of which shall be the Electrical Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Electrical Inspector shall have had experience as an electrician, shall be of good moral character and shall be knowledgeable of the approved methods of electrical construction.

3. The Electrical Inspector shall have all of the powers and duties prescribed by the Electrical Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to electrical safety are properly enforced. (See Chapter 4, this Code of Ordinances).

4. The Electrical Inspector shall perform such other duties as the City Manager may require.

Section 1-46. Plumbing Inspector.

1. There shall be a Plumbing Inspection Department, the director of which shall be the Plumbing Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Plumbing Inspector shall have all of the powers and duties prescribed by the Plumbing Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to water and sanitary plumbing are properly enforced. (See Chapter 4, this Code of Ordinance).

3. The Plumbing Inspector shall perform such other duties as the City Manager may require.

Section 1-47. Mechanical Inspector.

1. There shall be a Mechanical Inspection Department, the director of which shall be the Mechanical Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Mechanical Inspector shall have all of the powers and duties prescribed by the Mechanical Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to mechanical fixtures (heat and air) are properly enforced. (See Chapter 4, this Code of Ordinance).

3. The Mechanical Inspector shall perform such other duties as the City Manager may require.

Section 1-48. Department of Public Works.

1. There shall be a Public Works Department, the director of which shall be the Director of Public Works, to be appointed and removed, at pleasure, by the City Manager.

2. The Director of Public Works shall coordinate, administer, and otherwise have charge of, as directed by the City Manager, all public work activities of the City of Elk City.

3. For purposes of this section, public works activities are those by the water, sewer, sanitation, street, and any other department as designated by the City Manager.

4. The Director of Public Works shall perform such other duties as the City Manager may require.

Section 1-49. Water Department.

1. There shall be a Water Department, the director of which shall be the Superintendent of the Water Department to be appointed and removed, at pleasure, by the City Manager.

2. It shall be the duty of the Water Department to have charge of, control, operate, repair, maintain and improve the water system of the City.

3. The superintendent or any other employee working in the utilities department, shall, within one (1) year from the beginning date of employment, be certified by the Oklahoma State Department of Health as a water system operator.

4. The Water Superintendent shall perform such other duties as the City Manager may require.

Section 1-50. Wastewater Department.

1. There shall be a Wastewater Treatment Department, the director of which shall be the Superintendent of the Wastewater Department appointed and removed, at pleasure, by the City Manager. He shall have supervision and control of the Wastewater Department.

2. It shall be the duty of the Wastewater Department to have charge of, control, operate, repair, maintain and improve the wastewater system of the City.

3. The Superintendent or any other employee working in the utilities department, shall, within one (1) year from the beginning date of employment, be certified by the Oklahoma State Department of Health as a wastewater system operator.

4. The Superintendent shall perform such other duties as the City Manager may require.

Section 1-51. Sanitation Department.

1. There shall be a Sanitation Department, the director of which shall be the Superintendent of the Sanitation Department appointed and removed, at pleasure, by the City Manager. The Superintendent shall have supervision and control of the Sanitation Department.

2. It shall be the duty of the Sanitation Department, among others, to collect garbage and other refuse, and to dispose of it.

3. The Superintendent shall perform such other duties as the City Manager may require.

Section 1-52. Street Department.

1. There shall be a Street Department, the director of which shall be the Superintendent of Streets appointed and removed, at pleasure, by the City Manager. He shall have supervision and control of the Street Department.

2. It shall be the duty of the Street Department, among others, to construct, repair, maintain and improve streets, alleys and other public ways, and street and traffic lights, signs, markings and signals.

3. The Superintendent shall perform such other duties as the City Manager may require.

Section 1-53. Parks Department.

1. There shall be a Parks Department, the director of which shall be the Superintendent of Parks appointed and removed, at pleasure, by the City Manager. He/She shall have supervision and control of the Parks Department.

2. It shall be the duty of the Parks Department, among others, to construct, repair, maintain and improve the park and recreational facilities of the City that are open and free to at all times to the public.

3. Any club or organization desiring to utilize City property for recreational use limited to the club or organization, shall have a written Lease with the City defining the terms of the arrangement. The club or organization will be required to pay for all expenses and maintenance within the confines of said property for the term of the Lease.

4. The Park Superintendent shall perform any other duties as the City Manager may require.

Section 1-54. Civil Defense Director.

1. The Office of Civil Defense Director is hereby created, to be appointed and removed, at the pleasure, of the City Manager, (See Chapter 7, this Code of Ordinances).

2. The Civil Defense Director shall be the executive director of the Department of Civil Defense and shall be responsible for carrying out the Civil Defense Program of the City of Elk City, Oklahoma.

3. The Director of Civil Defense shall have the authority, duty and responsibility to:

- a. Form an organization to prepare and implement a Civil Defense Program;
- b. Form committees to perfect such an organization;
- c. Appoint the chairman of such committees;
- d. Cooperate with other governmental civil defense agencies; and

- e. Formulate plans, gather information and maintain records for said Civil Defense Organization.

4. The Director of Civil Defense may be reimbursed for expenses incurred in the performance of his duties; provided such expenses are the direction of, and approved by, the City Manager.

5. In the event of an enemy-caused emergency or emergency resulting from natural causes, the Civil Defense Director, after authorization from the City Manager, shall have the authority to enforce all regulations relating to civil defense, for the purpose of protecting the residents of the City of Elk City, Oklahoma.

6. The Civil Defense Director shall perform any other duties as the City Manager may require.

Section 1-55. Civil Defense Department Created; Purpose.

1. There is hereby established a Department of Civil Defense Advisory Committee which shall consist of the City Manager, who shall serve as Committee Chairman, and five (5) members appointed by the Mayor, with approval of the Commission. Said members shall serve at the pleasure of the City Commission.

2. The function of the Civil Defense Advisory Committee shall be to act in an advisory capacity to, and as needed or requested by, the Mayor or the Commission.

Section 1-56. Municipal Planning & Zoning Board.

1. There is hereby created a Municipal Planning & Zoning Board for the City of Elk City, Oklahoma, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex-officio member of said Board, with voting privileges. (See Chapter 18, this Code of Ordinances.)

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Planning & Zoning Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Planning & Zoning Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the

Municipal Planning & Zoning Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

Section 1-57. Municipal Cemetery Board.

1. There is hereby created a Municipal Cemetery Board for the City of Elk City, Oklahoma, to be composed of not less than three (3) members, appointed by the Mayor, subject to confirmation by the City Commission. One member of the City Commission shall serve as an ex-officio member of said Board with voting privileges. (See Chapter 6, this Code of Ordinances.)

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Cemetery Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Cemetery Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Cemetery Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

Section 1-58. Municipal Park Board.

1. There is hereby created a Municipal Park Board for the City of Elk City, to be composed of not less than five (5) members appointed by the Mayor subject to confirmation by the City Commission. One member of the City Commission shall serve as ex-officio member, with voting privileges.

2. All appointments shall be for a five (5) year term or until their successors are appointed and qualified. The members of the Municipal Park Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Park Board shall make recommendations as to the care, management and control of all municipal parks and recreation areas. It may recommend rules and regulations governing the parks, subject to the inaction of Ordinances by the City Commission. (See also Chapter 17, this Code of Ordinances.)

4. Members of the Municipal Park Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

5. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Park Board may create and fill such other offices as it may deem necessary. The term of

all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

Section 1-59. Municipal Housing Authority Board.

1. There is hereby created a Municipal Housing Authority Board for the City of Elk City, Oklahoma, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex-officio member to said Board, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Housing Authority Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Housing Authority Board shall have charge of the care, management and control of the Housing Authority of Elk City, Oklahoma.

4. Members of the Municipal Housing Authority Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

5. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Housing Authority Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

Section 1-60. Municipal Fair Housing Board.

1. There is hereby created a Municipal Fair Housing Board of the City of Elk City, (hereinafter referred to as "Board"), composed of the five (5) members, of the City Commission for terms of four (4) years, or until their successors are appointed and qualified. The members of the Municipal Fair Housing Board shall be members of the community, and shall serve without salary.

2. It shall be the duty of the Municipal Fair Housing Board to initiate, receive, and investigate complaints, charging unlawful housing practice; seek conciliation of such complaints, hold hearing, make findings of fact, and publish its findings of fact; and adopt such rules and regulations as may be necessary within the limits of this Ordinance, and carry out the purposes and provisions of this Ordinance.

Section 1-61. Municipal Library Board.

1. There is hereby created a Municipal Library Board for the City of Elk City, Oklahoma to be composed of not less than six (6) members, appointed by the Mayor, subject to confirmation by the City Commission. One member of the City Commission shall serve as ex-officio member, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their

successors are appointed and qualified. The members of the Municipal Library Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Library Board shall have advisory responsibilities for the management of municipal libraries in the City of Elk City, Oklahoma.

4. The Municipal Library Board may make all necessary rules and regulations for its operation and for the care and management of libraries supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

5. Members of the Municipal Library Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

6. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Library Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

Section 1-62. Municipal Museum Board.

1. There is hereby created a Municipal Museum Board for the City of Elk City, Oklahoma, to be composed of not less than nine (9) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board, with voting privileges.

2. All appointments of members shall be for a five (5) year term or until their successors are appointed and qualified. The members of the Municipal Museum Board shall be appointed from members of the community, and shall serve without salary.

3. The President and Vice-President of the Western Oklahoma Historical Society shall be ex-officio members of the Municipal Museum Board.

4. The President and Executive Vice President of the Elk City Chamber of Commerce shall be ex-officio members of the Municipal Museum Board.

5. The Municipal Museum Board shall have advisory responsibilities for the management of municipal museums in the City of Elk City, Oklahoma.

6. The Municipal Museum Board may make all necessary rules and regulations for its operation and for the care and management of museums supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

7. Members of the Municipal Museum Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring

other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

8. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Museum Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

Section 1-63. Municipal Civic Center Board

1. There is hereby created a Municipal Civic Center Board for the City of Elk City, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successor are appointed and qualified. The members of the Municipal Civic Center Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Civic Center Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Civic Center Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

5. The President, Executive Vice President and Treasurer of the Elk City Chamber of Commerce shall serve as ex-officio members of the Municipal Civic Center Board.

6. The Municipal Civic Center Board shall have advisory responsibilities for the management of all Civic Center facilities in the City of Elk City, Oklahoma.

7. The Municipal Civic Center Board may make all necessary rules and regulations for its operation and for the care and management of Civic Center facilities supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

Section 1-64. Municipal Airport Board.

1. There is hereby created a Municipal Airport Board for the City of Elk City, to be composed of not less than seven (7) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board,

with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Airport Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Airport Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Airport Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

Section 1-65. Department of Health.

1. The County-City Co-operative Health Department established in this County as provided in 63 O.S. 1951 #516-516c, shall serve as the Health Department of this City, and be under the administrative supervision and control of the City Manager for City purposes, insofar as permitted by law.

2. The phrases "City Superintendent of Public Health", "Superintendent of Health", "Superintendent of Public Health", "Health Officer", and other phrases of the same meaning, wherever they occur in the Ordinances of the City, shall mean the administrative head, or director, of the Co-operative Health Department, unless otherwise clearly indicated by the context. He shall have the status of director, or superintendent, of a City Department of Health insofar as this is permitted by law (due recognition being given to his larger responsibilities.)

3. The Co-operative Department of Health shall perform such duties, and have such powers, as may be prescribed by ordinance, law, and the rules and regulations of the State Department of Health.

Sections 1-66 through 1-74. (Reserved for future use.)

Article 5. Financial and Business Procedures

Section 1-75. Purchasing and Sales Procedures.

1. The City Manager shall contract for and purchase, or issue purchase authorizations for, all supplies, materials and equipment for the operation of the municipal government. Before the

purchase of, or contract for, any supplies, materials or equipment, or the sale of any surplus or obsolete supplies, materials or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions as said City Manger may prescribe, shall be given.

2. "Contractual service," for the purposes of this Chapter, shall mean services performed for the City by persons not in the employ of the City and may include the use of equipment or the furnishing of commodities in connection with such services under express or implied contract. "Contractual service" shall include travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rents, printing and binding, repairs, alterations and maintenance of buildings, equipment, streets, bridges and other physical facilities of the City.

3. Subject to the provisions of this Section, surplus or obsolete supplies, materials or equipment belonging to the City may be sold by the City Manager.

4. No sale shall be made under this Section until the City Manager has declared the supplies, materials or equipment involved to be surplus or obsolete.

5. Except as may otherwise be provided, the City Manager shall advertise any sale under this Section in a newspaper of general circulation in the City of Elk City, or in such other manner as deemed necessary to adequately reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and opened in public at a designated time and place, except when the sale is by auction. The City Manager may repeatedly reject all bids and advertise again. The City Manager shall sell such supplies, materials and equipment to the highest responsible bidder and, if necessary, shall cast lots in case of a tie to determine to whom to sell.

6. The City Manager may sell surplus or obsolete supplies, materials or equipment, the total value of which does not exceed two hundred dollars (\$200.00) in a single transaction, without giving an opportunity for competitive bidding.

7. The City Manager, subject to any regulations which the City Commission or Charter may prescribe, shall contract for and purchase, or issue purchase authorization for, all supplies, materials and equipment for the offices, departments and agencies of the municipal government. Every such contract or purchase exceeding Ten thousand dollars (\$10,000.00), shall require the prior approval of the City Commission. The City Manager may also transfer to or between offices, departments and agencies, or sell, surplus or obsolete supplies, materials and equipment, subject to such regulations as the City Commission may prescribe.

Section 1-76. Competitive Bidding.

1. Except as otherwise provided in Subsection 2 (below), before the City Manager makes any purchase of, or contract for, supplies, materials, equipment or contractual services, he shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation or invitation to bid and specifications, to give them opportunity to bid. As an alternative, said City Manager may publish notice of the proposed purchase in a newspaper of general circulation within the City or County. The City Manager shall favor a person, firm or

corporation in the City when this can be done without additional cost to the City, but they shall submit requests for quotation to those outside the City when necessary to secure bids or to create competitive conditions, or when they think that they can make a saving for the City. All bids shall be sealed and opened in public at a designated time and place. The City Commission may repeatedly reject all bids and may again submit to the same or other persons, firms or corporations, the request for quotations or invitation to bid, or again publish notice of the proposed purchase. The City Commission shall purchase from the bidder whose bid is most advantageous to the City, considering price, quality, date of delivery and the like; in the event of a tie, said City may cast lots to determine from whom to make a purchase, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the City.

2. The City Manager may purchase, or authorize the purchase of the following without giving an opportunity for competitive bidding:

- a. Supplies, materials, equipment or contractual services, the cost of which does not exceed the applicable dollar amount established by current State Law in a single transaction;
- b. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which has a uniform price wherever bought;
- c. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers (including war surplus);
- d. Contractual services (gas, electricity, telephone services, etc.) purchased from a public utility corporation at a price or rate determined by the State Corporation Commission or other government authority; or
- e. Contractual services of a professional nature such as engineering, legal, architectural and medical services.

Section 1-77. Insurance.

1. The City Manager may insure municipal property, as authorized by Oklahoma Statutes. Any money received as a result of destruction, damages or loss of such insured property shall be accounted for, and used as provided by, said Statutes.

2. The City Manager may purchase insurance to pay damages to persons sustaining injuries or damages to property as a result of negligent operation of motor vehicles or motorized equipment of the City of Elk City, Oklahoma.

3. The City Manager is hereby directed to procure and maintain liability insurance as

follows:

- a. Comprehensive General Liability, including bodily injury and property damage for all functions, facilities and services of the municipality, \$1,000,000 per occurrence.
- b. Errors and Omissions (public official liability for wrongful acts), \$1,000,000.
- c. Personal Injury and police professional liability (including assault and battery), civil rights and other risks, \$1,000,000.

Section 1-78. Law Enforcement Officers Training Reimbursement.

1. The City of Elk City, Oklahoma, shall reimburse the "Law Enforcement Officer's Training Fund" of the Oklahoma State Treasury as required by 20 O.S. Supplement 1982, Section 1313.1, amended 1983. The reimbursement shall be an amount equal to two dollars (\$2.00) times the number of fines collected by the City for violations of municipal offenses in the amount of ten dollars (\$10.00) or more.

2. The Clerk, or other individual designated by the City Manager, shall deposit this amount into the Law Enforcement Officer's Training Fund (Subsection 1, above) on a quarterly basis after January 1, 1984.

Sections 1-79 through 1-84. (Reserved for future use.)

Article 6. Sales Tax

Section 1-85. Citation.

This Article constitutes, shall be known and may be cited as the "Elk City, Oklahoma, Sales Tax Ordinance."

Section 1-86. Definitions.

1. The definitions of words, terms, and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes are hereby adopted by reference and made a part of this Ordinance.

2. The total retail sale price received for the sale, preparation or service of mixed beverages, ice and non-alcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation and service occurs, shall constitute the gross receipts from such transaction.

Section 1-87. Tax Collector Defined.

The term "tax collector" as used herein means the department of the municipal government or the official agency of the State duly designated according to law, or contract authorized by law, to administer the collection of the tax herein levied.

Section 1-88. Classification of Taxpayers.

For the purpose of this Article, the classification of taxpayers hereunder shall be as prescribed by State Statutes for purposes of the Oklahoma Sales Tax Code.

Section 1-89. Subsisting State Permits.

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

Section 1-90. Effective Date.

This Ordinance shall become and be effective on and after September 1, 1981 subject to approval of a majority of the registered voters of the City of Elk City, Oklahoma voting on the same in the manner prescribed by Oklahoma Statutes.

Section 1-91. Purpose of Revenues.

It is hereby declared to be the purposes of this Sales Tax Ordinance to provide revenues for the support of the function of the municipal government of the City of Elk City, Oklahoma.

Section 1-92. Tax Rate: Sales Subject to Tax.

There is hereby levied an excise tax of four percent (4%) upon the gross proceeds or gross

receipts derived from all sales taxable under the Sales Tax Law of Oklahoma (68 O.S. 1981 1350, et seq. as amended.) In addition, sales subject to the excise tax 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 service occurs.

Section 1-93. Exemptions.

There is hereby specifically exempted from the tax levied by this Article, the gross receipts or gross proceeds exempted from the Sale Tax Law of Oklahoma, (68 O.S. 1981, 1350, et. seq. as amended.)

Section 1-94. Other Exempt Transfers.

Also, there is hereby specifically exempted from the tax herein levied, the transfer of tangible personal property exempted from the Oklahoma Sales Tax Law (68 O.S. 1981, 1350 et. seq. as amended.)

Section 1-95. Tax Due When: Returns; Records.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State Sales Tax under the Sales Tax Law of the State of Oklahoma.

Section 1-96. Payment of Tax: Brackets.

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

2. The bracket system for the collection of the four percent (4%) municipal sales tax by the tax collector, shall be as the same as hereafter adopted by the agreement of the City of Elk City, Oklahoma, and the tax collector in the collection of both the four percent (4%) municipal sales tax and the four and one-half percent (4.50%) State Sales Tax.

Section 1-97. 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 1-98. Vendor's Duty to Collect Tax.

1. The tax levied hereunder shall be paid by the consumer or user to the vendor and it

shall be the duty of each and every vendor in this City to collect from the consumer or user, the full amount of the tax levied by this Article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

2. 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 debt from the consumer or user to the vendor until paid and shall be recoverable by law in the same manner as other debts.

3. A vendor, as defined herein, who willfully or intentionally fails, neglects, or refuses to collect the full amount of the tax levied by this Article, 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, at a price including the tax or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00), including court costs.

Section 1-99. Returns and Remittances; Discounts.

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

Section 1-100. Interest and Penalties; Delinquency.

Section 217 of Title 68 O.S. 1981, as amended, is hereby adopted and made a part of this Article, and interest and penalties at the rate and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Article. The failure or refusal of any taxpayer to make and transmit the report and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this Article.

Section 1-101. Waiver of Interest and Penalties.

The interest, penalty or any portion thereof, accruing by reason of a taxpayer's failure to pay the municipal tax herein levied, may be waived, as applied in the administration of the Sales Tax provided in Title 68 O.S. 1981, Section 220; to accomplish the purposes of this Section, the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

Section 1-102. Erroneous Payment; Claim for Refund.

Refund of erroneous payment of the municipal sales tax herein levied may be made to any taxpayer making such erroneous payment, in the same manner and under the same limitations of time, as provided for administration of the State Sales Tax as set forth in Title 68, O.S. 1981, Section 227 and, to accomplish the purposes of this Section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

Section 1-103. Fraudulent Returns.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment or any tax, or portion thereof, rightfully due under this Article, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than one hundred dollars (\$100.00), including court costs.

Section 1-104. Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of the municipal sales tax is legislatively recognized and declared, and to protect the same, the provisions of Title 68, O.S. 1981, (as amended), Section 205 of the State Sales Tax Code and each Subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal sales tax as if set forth herein in full.

Section 1-105. Amendments.

The people of the City of Elk City, Oklahoma, by their approval of this Ordinance at the election hereinbefore provided, have authorized the City, by Ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness; provided that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the municipality, as provided by law.

Section 1-106. Provisions Cumulative.

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

Section 1-107. Provisions Severable.

The provisions hereof are hereby declared to be severable, and if any Section, paragraph, sentence or clause of this Article 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 1-108 through 1-114. (Reserved for future use.)

Article 7. Firemen's Pensions.

Section 1-115. Participation in State Firemen's Relief and Pension Fund.

1. The Volunteer Fire Department of the City of Elk City, Oklahoma, shall be subject to all of the provisions of the Oklahoma State Fireman's Relief Pension Act, all of the provisions of which are hereby accepted by the City of Elk City, Oklahoma, for the use and benefit of its Volunteer Fire Department, which shall also be subject to all of the obligations hereunder.

2. From and after the effective date of this Code of Ordinances, it shall be the duty of the City Treasurer to deduct, or have deducted, from salaries or wages of each member of the Fire Department an amount equal to eight percent (8%) of the annual salaries or compensation paid to such members. The deductions shall be made at the time such firemen are paid and, when so deducted, shall be deposited with the Oklahoma Firefighters Pension and Retirement Board.

Section 1-116 through 1-124. (Reserved for future use.)

Article 8. Policemen's Pensions.

Section 1-125. Participation in State Police Pension and Retirement System.

1. The Police Department of the City of Elk City, Oklahoma, shall be subject to all the provisions of the Oklahoma Police Pension and Retirement System Act, all of the provisions of which are hereby accepted by the City of Elk City, Oklahoma, for the use and benefit of its Police Department, which shall also be subject to all of the obligations hereunder.

2. From and after the effective date of this Code of Ordinances, it shall be the duty of the City Treasurer to deduct, or have deducted, from salaries or wages of each member of the Police Department an amount equal to eight percent (8%) of the annual salaries or compensation paid to such members. The deductions shall be made at the time such police officers are paid and, when so deducted, shall be deposited with the Oklahoma Police Pension and Retirement System.

Sections 1-126 through 1-130. (Reserved for future use.)

Article 9. Social Security.

Section 1-131. Extension of Benefits.

It is hereby declared to be policy and purpose of the City of Elk City, Oklahoma, to extend to the employees and officials thereof not excluded by law or this Article, and whether employed in connection with a governmental or proprietary function, the benefits of the system of Federal Old-Age and Survivors Insurance, as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 -- 81st Congress. In pursuance of such policy and for that purpose, said municipality shall take such action as may be required by applicable State or Federal Laws or regulations.

Section 1-132. Execution of Agreements.

The City Manager of the City of Elk City, Oklahoma, is hereby authorized and directed to execute all necessary agreements and amendments thereto, with the State Department of Public Welfare as agent or agency, to secure coverage of employees and officials as provided in Section 1-131 (above).

Section 1-133. Withholdings from Salaries.

Withholdings from salaries or wages of employees and officials for the purpose provided in Section 1-131 (above) are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal Laws or regulations, and shall be paid over to the State or Federal agency designated by such Laws and regulations.

Section 1-134. Contributions by City.

There shall be appropriated by the City of Elk City, Oklahoma, from available funds, such amounts at such times as may be required by applicable State or Federal Laws or regulations for employer's contributions to the system of Federal Old-Age and Survivors Insurance. Such funds shall be paid over to the State or Federal agency designated by said Laws or regulations.

Section 1-135. Records and Reports.

The City of Elk City, Oklahoma, shall keep such records and make such reports, relative to the system of Federal Old-Age and Survivors Insurance, as may be required by applicable State or Federal Laws or regulations.

Section 1-136. Excluded Officers and Employees.

1. There is hereby excluded from this Article and the benefits established hereunder, any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other Ordinance creating any retirement system for any employee or official of the City of Elk City, Oklahoma.

2. There is hereby excluded from this Article and the benefits established hereunder, and authority to make any agreement with respect to any position, employee or official, compensation for which is on a fee basis, or any position, employee or official not authorized to be covered by applicable State or Federal Laws or regulations.

Section 1-137 through 1-144. (Reserved for future use.)

Article 10. Telephone Inspection Fee.

Section 1-145. Inspection Fee.

There is hereby levied an annual inspection fee and service charge upon every person, firm or corporation operating a telephone exchange or rendering telephone service in the City of Elk City, Oklahoma, in amount equal to two percent (2%) of the gross revenues for each current year, for exchange telephone transmission service rendered wholly within the corporate limits of the City of Elk City, Oklahoma, to compensate the municipality for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations and control during construction and operation of lines and equipment of said telephone company in said municipality. Said fee shall be due and payable on or before the 1st day of March of each year and shall be paid into, and expended from, the General Fund of the City of Elk City, Oklahoma.

Section 1-146. Fee in Lieu of Taxes.

During continued substantial compliance with the terms of this Article by the owner, the telephone exchange (or company rendering telephone service within the limits of said municipality), the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excises, franchises, license, privileges and permit fees, taxes or assessments except ad valorem taxes; provided, however, that it is not intended hereby to extinguish or abrogate all existing arrangements whereby said municipality is permitted to use underground conduits, duct space or pole contracts of said company.

Section 1-147. Failure to Pay Inspection Fee.

Should any person, firm or corporation fail or refuse to pay such fee when levied, action may be taken against such person, firm or corporation for the amount of such fees; all expenses for collection of the same, including a reasonable attorney's fee, shall be paid by the party or parties that said action is taken against.

Sections 1-148 through 1-154. (Reserved for future use.)

Article 11. Cable Television; Licenses; Fees.

Sections 1-155 through 1-169. (Reserved for future use.)

Article 12. Gross Receipts Tax.

Section 1-170. Power to Levy and Assess Tax; Tax in Lieu of Other taxes.

The City of Elk City, being vested with power so to do, does hereby levy and assess an annual tax upon the gross receipts from residential and commercial sales of power, light, heat, electricity, water or both natural and liquefied petroleum gas in the City of Elk City, Oklahoma, in the amount of two percent (2%) of the gross receipts from said residential and commercial sales; this tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the City of Elk City, Oklahoma, provided, however, that any franchise may provide.

Section 1-171. Application of Tax.

The tax authorized to be levied under Section 1-170 (above) of this Article shall be levied at the time this Article shall take effect and shall apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, electricity, water or both natural and liquefied petroleum gas in the City of Elk City, Oklahoma; it shall not apply to any person, firm, association or corporation operating under a valid franchise from the City of Elk City, Oklahoma, and said exception shall be so stated in said valid franchise.

Section 1-172. Tax Levied for One (1) Year; Payable Quarterly; Disposition.

This tax that is now levied under Section 1-170 of this Article shall be levied for a term of not less than one (1) year and shall continue in effect until further amended or repealed; it shall be payable quarterly to the Clerk of the City of Elk City, Oklahoma and placed in the General Fund of

said City.

Section 1-173. Penalties; Failure to Pay Tax.

Should any person, firm or corporation fail or refuse to pay such tax when levied, action may be taken against such person, firm or corporation for the amount of such tax; all expenses for collection of the same, including reasonable attorney fees, shall be paid by the party or parties that said action is taken against.

Section 1-174. Lien for Tax.

The Tax so imposed shall constitute a first and prior lien on all assets located within the City of Elk City, Oklahoma, of any person, firm or corporation engaged in the business of selling power, light, heat, electricity, water or natural and liquefied petroleum gas.

Section 1-175 through 1-185. (Reserved for future use.)

Article 13. Municipal Use Tax.

**Section 1-186. Excise Tax on Storage, Use or Other Consumption
of Intangible, Personal Property Levied.**

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on storage, use or other consuming within the municipality of such property at the rate of three percent (3%) of the purchase price on 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 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 sale 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 1-187. Exemptions.

The provisions of this Article 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 City of Elk City 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 City of Elk City Use Tax Ordinance, the provisions of this Article shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the City of Elk City 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 Sale 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 the intent 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;
- (h) in respect to livestock purchased outside Oklahoma and brought into this municipality for feeding and breeding purposes, and which is later resold.

Section 1-188. Time When Due--Returns--Payment.

The tax levied by this Article is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

Section 1-189. 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 1-190. 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 Article 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 City.

**Section 1-191. Collection of Tax by Retailer or Vendor not
Maintaining a Place of Business within
State 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 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 canceled when at any time the Tax Commission considered 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 1-192. Revoking Permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Article or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. 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 Article, the Oklahoma Use Tax Code, or any other, rules or regulations of the Tax Commission.

Section 1-193. Renumerative Deductions Allowed Vendors or Retailers of Other States.

Returns or 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 1-194. Interest and Penalties--Delinquency.

Section 217 of Title 68 O.S. 1981 is hereby adopted and made a part of this Article, and interest and penalties at the rate and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied in this Article. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Article.

Section 1-195. Waiver or 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 purposes of this section and the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

Section 1-196. 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 Article.

Section 1-197. Fraudulent Returns.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00) and costs. Each day of noncompliance with this Article shall constitute a separate offense.

Section 1-198. 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 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 herein set forth in full.

Section 1-199. Provisions Cumulative.

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

Section 1-200. Provisions Severable.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not effect any other section, paragraph, sentence or clause thereof.

Section 1-201. Definitions.

The definitions of words, terms and phrases defined in the Oklahoma Use Tax Code, Section 1401, 68 O.S. 1981, are hereby adopted by reference and made a part of this Article. In addition, thereto, the following words and terms shall be defined as follows:

1. City shall mean the City of Elk City, Oklahoma.
2. Transaction shall mean sale.

Section 1-202. 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 1-203. Classification of Taxpayers.

For the purpose of this Article, the classification of taxpayers hereunder shall be prescribed by state law for purposes of the Oklahoma Use Tax Code.

Section 1-204. Subsisting State Permits.

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

Section 1-205. Purposes of Revenues.

It is hereby declared to be the purpose of this Article to provide revenues for the support of the functions of the municipal government of the municipality, and any and all revenues derived hereunder may be expended by the governing body of the municipality for any purposes for which funds may be lawfully expended as authorized.

Section 1-206. Citation and Codification.

This Article shall be known and may be cited as "City of Elk City Use Tax Ordinance".

Section 1-207 through 1-217 (Reserved for future use.)

Article 14. Miscellaneous Provisions.

Section 1-218. Officers to give Bonds.

The City Manager, the City Treasurer, the City Clerk and such other personnel as the Commission may require, shall provide bonds for the faithful performance of their respective duties, payable to the City, in such amounts as the Commission may prescribe by motion or resolution, with a surety company authorized to operate within the State. The City shall pay the premium on all such bonds. Provided also that the Commission may also place personnel under a blanket bond.

Section 1-219. Salaries and Wages.

The City Manager and the City Treasurer shall be paid such salaries as the Commission may determine from time to time by motion or resolution.

All officers and employees appointed by the City Manager shall be paid such compensation as may be determined by the City Manager with the approval of the Commission.

Note: As regards compensation of officers and employees, see the Charter, Sections 18 and 19(b).

Section 1-220. Succession in Government.

1. All Ordinances, insofar as they are not inconsistent with this Code of Ordinances, shall continue in effect until they are repealed or until they expire by their own limitations.

2. All officers and employees of the City of Elk City, Oklahoma, under any and all previous Ordinances, shall continue in the offices and employments which they respectively hold, after this Code of Ordinances goes into effect.

3. All books, vouchers, monies or other property belonging to the City of Elk City, Oklahoma, and in charge or possession of any officer of the City, shall be delivered to his successor.

Section 1-221. Nepotism: Compatibility of Offices.

1. No member of the City Commission nor any other authority of the municipal government, may appoint, or vote for the appointment of, any person related to himself by affinity or consanguinity within the 3rd degree, to any office or position of profit in the municipal government.

2. Except as may be otherwise provided by Ordinance, the same person may hold more

than one (1) office or position in the municipal government.

Section 1-222. Ordinances.

1. The enacting clause of all Ordinances passed by the City Commission shall be: "Be it ordained by the City Commission of the City of Elk City, Oklahoma," and of all Ordinances proposed by the voters under their power of initiative, "Be it ordained by the people of the City of Elk City, Oklahoma."

2. Every proposed Ordinance shall be read and a vote of a majority of all the Commissioners shall be required for its final passage.

3. The Mayor shall have no power to veto any Ordinance.

4. Every Ordinance, except those excepted by State Law, shall be published by title or in full, within ten (10) days after its passage, in a newspaper of general circulation within the City or County, or posted in ten (10) public places within the City.

5. Every Ordinance, except an emergency Ordinance, shall become effective thirty (30) days after its final passage, unless it specifies a later date.

6. An emergency Ordinance is an Ordinance which, in the judgment of the City Commission, is necessary for the immediate preservation of the peace, health or safety, and which should become effective prior to the time when a regular Ordinance would become effective. Every such Ordinance shall contain, as a part of its title, the words "and declaring an emergency" and, in a separate Section (herein called the emergency Section), shall declare the emergency. The City Commission shall vote on the emergency Section separately and must adopt the emergency Section by a vote of at least three-fourth (3/4) of all the members of said City Commission. An emergency Ordinance shall take effect upon passage, unless it specifies a later date.

Section 1-223. Ordinances: Adoption by Reference.

The City Commission, by Ordinance, may adopt by reference Codes, Ordinances and standards relating to building, plumbing, electrical installations and other matters which it has the power to regulate. Such a Code, Ordinance or standard so adopted need not be enrolled in this Code of Ordinances; provided that three (3) copies are filed and kept in the Office of the Clerk.

Section 1-224. Ordinances: Compilation.

1. Every ten (10) years, the City of Elk City, Oklahoma, shall compile and publish its

effective penal Ordinances in a permanent form.

2. One (1) copy of the compilation of Ordinances shall be deposited by the City in the County Law Library.

3. Every two (2) years the City of Elk City, Oklahoma, shall publish supplements to its compiled penal Ordinances, and no Ordinance shall be enforced if it is not reflected in such compilation or supplement, if such Ordinance was adopted more than one (1) year prior to the latest compilation or supplement.

4. When the City has compiled and published its Ordinances, the City Commission, shall adopt a Resolution notifying the public of such compliance and cause certified copies of the Resolution to be filed in the Office of the Beckham County Clerk and in the Office of the Clerk of the State Supreme Court.

Section 1-225. Amendments or Additions to the Code of Ordinances.

1. The City Commission shall have the power to repeal, alter or amend this Code of Ordinances.

2. All Ordinances passed subsequent to this Code of Ordinances which amends, repeal, or in any way affect said Code, may be numbered in accordance with the numbering system of this Code of Ordinances and printed for inclusion therein. When subsequent Ordinances repeal any Chapter, Section or Subsection, or any portion thereof, such repealed portions may be excluded from this Code of Ordinances by omission thereof from reprinted pages. Such inclusion of Ordinances passed subsequent to this Code of Ordinances which amend or add to this Code (except in the case of repeal), shall be prima facie evidence of such evidence of such subsequent Ordinances until such time that this Code of Ordinances and subsequent Ordinances numbered or omitted, are readopted as a new Code of Ordinance by the City Commission.

3. Amendments to any of the provisions of this Code of Ordinances shall be made by amending such provisions by specific reference to the Chapter, Article and Section numbers of this Code in the following language: "That Section _____ of Article _____, Chapter _____, of the Code of Ordinances, of _____, Oklahoma, is hereby amended to read as follows: ` _____ .'" The new provisions shall then be set out in full as desired.

4. In the event a new Section not heretofore existing in the Code of Ordinances is to be added, the following language shall be used: "That the Code of Ordinances, of _____, Oklahoma, is hereby amended by adding a Section Article _____ of Chapter _____, to be numbered _____, which said Section reads as follows: ' _____ .'" The new Section shall then be set out in full as desired.

