

Finance and Taxation

PART 7

FINANCE AND TAXATION

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SECTION 7-101 DEPOSITORIES DESIGNATED: FUNDS TO BE DEPOSITED

Funds of the city shall be deposited as required by law. The city treasurer shall deposit daily all public funds received by him into designated banks and savings and loan associations.

SECTION 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM

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

SECTION 7-103 RESERVED

"SECTION 7-104 RESERVED.

SECTION 7-105 RESERVED

SECTION 7-106 RESERVED

SECTION 7-107 RESERVED

SECTION 7-108 RESERVED

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SECTION 7-109 ECONOMIC DEVELOPMENT FUND

There shall be created an Economic Development Fund for the city. Fifty percent (50%) of all monies received by the city from revenues generated by the sale of building permits shall be paid to the city treasurer, who shall deposit the same in the municipal treasury in a special and separate account, designated the Economic Development Fund. All purchases and disbursements from the fund shall be in accordance with the ordinances of the city and pursuant to state law.

SECTION 7-110 SELF INSURANCE FUND

There shall be created a Self Insurance Fund account that shall be separate and apart from other accounts of the city. The city council of the city shall make such appropriations as necessary and appropriate into the fund. All purchases and disbursements from the fund shall be in accordance with the ordinances of the city and pursuant to state law.

SECTION 7-111 RESERVED

SECTION 7-112 CHARGE FOR RETURNED CHECKS

The city shall charge a fee as set by the council by motion or resolution for any and all returned checks made payable to the city, if the check or other negotiable instrument is returned as being dishonored, for whatever reason. In addition to the return check fee, the city shall also assess and collect from the payer any fees charged to the city resulting from the returned check by the financial institution or bank returning the instrument.

SECTION 7-113 EMERGENCY TELEPHONE SERVICE (E-911) FUND

There is hereby created an "E-911 Fund" account that shall be separate and apart from other accounts of the city. The city council shall make such appropriations as necessary and appropriate into the fund. All purchases and disbursements from the fund shall be in accordance with the ordinances of the city and state law.

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SECTION 7-201 CITATION AND CODIFICATION

This chapter shall be known and may be cited as "City of Coweta Sales Tax Ordinance."

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SECTION 7-202 DEFINITIONS

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

SECTION 7-203 TAX COLLECTOR DEFINED

The term "Tax collector" as used in this chapter means the department of the city or the official agency of the state duly designated according to law or contract, and authorized by law to administer the collection of the tax levied in this chapter.

SECTION 7-204 CLASSIFICATION OF TAXPAYERS

For the purpose of this chapter the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

SECTION 7-205 SUBSISTING STATE PERMITS

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

SECTION 7-206 EFFECTIVE DATE

This chapter became effective after approval of a majority of the registered voters of the city voting on the ordinance in the manner prescribed by Section 16-112 of Title 11 of the Oklahoma Statutes.

SECTION 7-207 PURPOSE OF REVENUES

- A. It is the purpose of the sales tax levying the first two (2) cents to provide revenues for the support of the functions of the municipal government of the city.
- B. It is the purpose of the sales tax levied by Ordinance 330 to provide revenues for the general operation of the government of the city, including, but not limited to, general administration, fire, water and sanitation services, and limited access facilities.

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SECTION 7-208 TAX RATE; SALES SUBJECT TO TAX

There is hereby levied an excise tax of three percent (3%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code including but not exclusive of the following:

1. Tangible personal property;
2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water and those specifically exempt by this chapter;
3. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, Pullman car companies, airlines and all other means of transportation for hire
4. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
5. Printing or printed matter of all types, kinds, and characters and the service of printing or over-printing, including the copying of information by mimeograph or multigraph or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information on magnetic tapes furnished by customers;
6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house or tourist camps;
7. Service of furnishing storage or parking privileges by auto hotels and parking lots;
8. Selling, renting or otherwise furnishing computer hardware or software or coding sheets, cards or magnetic tapes on which pre-written programs have been coded, punched or otherwise recorded;
9. Food, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;
10. Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;

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11. Dues or fees to clubs including free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;
12. Sales of tickets, fees or other charges made for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities, including free or complimentary admissions which shall have the value equivalent to the charge that would have otherwise been made;
13. Charges made for the privilege of entering or engaging in any kind of activity, when no admission is charged spectators, such as tennis, racket ball or hand ball courts;
14. Charges made for the privilege of using items for amusement, sports, entertainment or recreational activity such as trampolines or golf carts;
15. The rental of equipment for amusement, sports, entertainment or other recreational activities, such as bowling shoes, skates, golf carts, or other sports and athletic equipment;
16. The gross receipts from sales through any vending machine, without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;
17. Gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. Provided if the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

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18. Any licensing agreement, rental, lease or other device or instrument whereby rights to possess or exhibit motion pictures or filmed performances or rights to receive images, pictures or performances for telecast by any method are transferred. Provided, persons regularly engaged in the business of exhibiting motion pictures for which the sale of tickets or admissions is taxed under this chapter shall not be deemed to be consumers or users in respect to the licensing or exhibiting of copyrighted motion picture features, shorts, cartoons and scenes from copyrighted features and the sale or licensing of such films shall not be considered a sale within the purview of this chapter;

19. Flowers, plants, shrubs, trees and other floral items, whether or not same was produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. Provided, all orders taken outside this state for delivery within this state shall not be subject to the tax levied by this chapter;

20. Tangible personal property sold to persons, peddlers, solicitors or other salesmen, for resale where there is likelihood that this state will lose tax revenue due to the difficulty of enforcing this chapter because of:

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

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21. Any taxable services and tangible personal property including materials, supplies and equipment sold to contractors for the purpose of developing and improving real estate even though such real estate is intended for resale as real property are hereby declared to be sales to consumers or users and taxable; and

22. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, are hereby declared to be sales to consumers or users and taxable.

SECTION 7-209 EXEMPTIONS. SALES SUBJECT TO OTHER TAX

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

1. Sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax levied by state law has been paid;
2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied by state law has been paid;
3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under state law. This exemption shall not apply when such products are sold to consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state; and
4. Sale of aircraft on which the tax levied pursuant to Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid.

SECTION 7-210 EXEMPTIONS. GOVERNMENTAL AND NONPROFIT ENTITIES

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

1. Sale of tangible personal property or services to the United States Government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of the state; provided, all sales to contractors in connection with the performance of any contract with the United States Government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this chapter, except as hereinafter provided;

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2. Sales of property to agents appointed or contracted with by agencies or instrumentalities of the United States Government if ownership and possession of such property transfers immediately to the United States Government;
3. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;
4. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;
5. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members;
6. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;
7. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;
8. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S. and the Campfire Girls shall be exempt from sales tax;

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9. Sale of tangible personal property or services to any county, municipality, public school district, the institutions of the Oklahoma system of higher education and the Grand River Dam Authority, or to any person with whom any of the above named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above named subdivision or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of the sales tax involved or incarcerated for not more than sixty (60) days or both;

10. Sales of tangible personal property or services to private institutions of higher education and private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of Section 501 (c)(3) of the Internal Revenue Code, including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for education purposes. Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice of sales ticket the nature of the purchases, and violation of this act shall be a misdemeanor as set forth in Paragraph (9) of this section;

11. Tuition and education fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Section 501(c) (3) of the Internal Revenue Code; and

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12. Sales of tangible personal property made by public or private school for grade levels kindergarten through twelfth grade, a public school district, public school board, public school student group or organization or public school district personnel for purposes of raising funds for the benefit of such school, school district, school board, student group or organization. For purposes of this paragraph, "public or private school" shall mean any public or private institution of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall not include sale of admission tickets or concessions at athletic events.

SECTION 7-211 EXEMPTIONS; GENERAL

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

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One (\$1.00), or local transportation of persons within the corporate limits of a municipality by taxicab;
3. Carrier sales of newspapers and periodicals made directly to consumers. Other sales of newspapers and periodicals where any individual transaction does not exceed seventy-five cents (\$0.75). A carrier is a person who regularly delivers newspapers or periodicals to subscribers on an assigned route;
4. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this chapter. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit;
5. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

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6. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that he is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;
7. Sales of medicine or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicine or drugs. This exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;
8. Transfers of title or possession of empty, partially filled, or filled returnable oil drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;
9. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the State of Oklahoma in the federal food stamp program; and
10. Nothing herein shall be construed as limiting or prohibiting the city from levying and collecting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or commercial purposes. Any sales tax levied by the city on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items.

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SECTION 7-212 EXEMPTIONS; ON AGRICULTURE

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

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:
 - a. Farm, orchard or garden products;
 - b. Dairy products sold by a dairyman or farmer who owns all the cows from which the dairy products offered for sale are produced;
 - c. Livestock sold by the producer at a special livestock sale; or
 - d. The provisions of this paragraph shall not be construed as exempting sales by florists, nurserymen or chicken hatcheries, or sales of dairy products by any other business except as set out herein;
2. Livestock, including cattle, horses, mules, or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;
3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;
4. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:
 - a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;
 - b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products;
 - c. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;

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- d. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;
 - e. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and
 - f. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;
5. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:
- a. Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is so engaged in farming or ranching and that the material purchased will be used only in such business;
 - b. Sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that he is engaged in the business of applying such materials to lands owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which the materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;

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- c. Sales of agricultural fertilizer, pharmaceutical and biological to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this chapter, and the sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer" "pharmaceuticals" and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals;
- d. Sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens;
- e. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this act, agricultural chemical pesticides shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacterial or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and
- f. This exemption shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the contract price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor and, upon violation and conviction for a second offense, the Oklahoma Tax Commission shall revoke the vendor's sales tax permit; and

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6. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands. Each purchaser of farm machinery, repair parts thereto or fuel must certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is engaged in farming or ranching and that the farm machinery, repair parts thereto or fuel will be used only in farming or ranching. The exemption provided for herein shall not apply to motor vehicles. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor and, upon violation and conviction for a second offense, the Oklahoma Tax Commission shall revoke the vendor's sales tax permit.

SECTION 7-213 EXEMPTIONS: MANUFACTURERS

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

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

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4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this code. And, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;
5. Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state; or
6. Machinery, equipment, fuels and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of controlled industrial waste at treatment facilities specifically permitted pursuant to the Controlled Industrial Waste Disposal Act and operated at the place of waste generation, or facilities approved by the State Department of Health for the cleanup of a site of contamination. The term controlled industrial waste may include low-level radioactive waste for the purpose of this subsection.

SECTION 7-214 EXEMPTIONS CORPORATIONS AND PARTNERSHIPS

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

1. The transfer of tangible personal property, as follows:
 - a. From one corporation to another corporation pursuant to reorganization. As used in this subparagraph the term organization means a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
 - b. In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;

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- c. To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the property prior to the transfer;
 - d. To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer; or
 - e. From a partnership to the members thereof when made in kind in the dissolution of such partnership; and
2. Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the state sales or use tax has previously been paid on such tangible personal property.

SECTION 7-215 TAX DUE WHEN: RETURNS: RECORDS

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

SECTION 7-216 PAYMENT OF TAX: BRACKETS

- A. The tax herein levied shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax.
- B. The bracket system for the collection of the city sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the city and the tax collector in the collection of the city sales tax and the state sales tax.

SECTION 7-217 TAX CONSTITUTES DEBT

The taxes, penalty and interest due under this chapter shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

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SECTION 7-218 VENDOR'S DUTY TO COLLECT TAX: PENALTIES

- A. The tax levied hereunder shall be paid by the consumer or user to the vendor. It shall be the duty of each and every vendor in this city to collect from the consumer or user the full amount of the tax levied by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof.
- B. Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.
- C. A vendor, as defined hereunder, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, is deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.
- D. Any sum or sums collected or required to be collected in accordance with this chapter shall be deemed to be held in trust for the city. Any person, firm, corporation, joint venture or association that willfully or intentionally fails, neglects or refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor.

SECTION 7-219 RETURNS AND REMITTANCES: DISCOUNTS

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

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SECTION 7-220 INTEREST AND PENALTIES: DELINQUENCY

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

SECTION 7-221 WAIVER OF INTEREST AND PENALTIES

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

SECTION 7-222 ERRONEOUS PAYMENTS: CLAIM FOR REFUND

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

SECTION 7-223 FRAUDULENT RETURNS

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

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SECTION 7-224 RECORDS CONFIDENTIAL

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared, and to protect the same the provisions of the State Sales Tax Code, Section 205 of Title 68 of the Oklahoma Statutes, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if here set forth in full.

SECTION 7-225 AMENDMENTS

The people of the city, by their approval of the sales tax ordinance hereby authorize the mayor and city council, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this chapter as may be necessary or proper for efficiency and fairness. Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the city as provided by law.

SECTION 7-226 PROVISIONS CUMULATIVE

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

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CHAPTER 3

TELEPHONE TAXES AND FEE

ARTICLE A

TELEPHONE EXCHANGE FEE

Section 7-301 Fee levied on telephone exchanges

Section 7-302 Fee to be in lieu of other fees, taxes

ARTICLE B

TELEPHONE EXCHANGE FEE

Section 7-310 Tax imposed

Section 7-311 Limitation on exchange access lines taxed

Section 7-312 Monthly collection

Section 7-313 Purpose

Section 7-314 Administration

Section 7-315 Cooperation

Section 7-316 Administration fee

ARTICLE A

TELEPHONE EXCHANGE FEE

SECTION 7-301 FEE LEVIED ON TELEPHONE EXCHANGES

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the city in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the city. The inspection fee and charge shall be on a calendar year basis and shall be due and payable to the city on or before May 1 in each year for the whole of the calendar year next preceding the date and shall be paid into and appropriated and expended from the general revenue fund of the city.

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SECTION 7-302 FEE TO BE IN LIEU OF OTHER FEES, TAXES

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

ARTICLE B

EMERGENCY TELEPHONE SERVICE TAX

SECTION 7-310 TAX IMPOSED

There is hereby imposed a tax of five percent (5%) on the tariff charges for exchange telephone service or its equivalent of the local exchange telephone company providing service within the city limits of the city. After July 1, 1996, the tax shall be at the rate of three percent (3%) unless otherwise stated by the city council.

SECTION 7-311 LIMITATION ON EXCHANGE ACCESS LINES TAXED

No such tax shall be imposed upon more than one hundred (100) exchange access lines or their equivalent at one location per service user.

SECTION 7-312 MONTHLY COLLECTION

The tax levied herein shall be collected monthly by the local exchange telephone company authorized by the Oklahoma Corporation Commission to provide exchange telephone service within the city and shall be remitted to the city treasurer by the local exchange company within thirty (30) days of the close of the month in which such taxes were collected.

SECTION 7-313 PURPOSE

The funds collected from this tax shall be spent for engineering, installation, administration and recurring or one-time costs necessary to implement, administer, operate and maintain emergency 911 telephone service in the city.

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SECTION 7-314 ADMINISTRATION

The city manager is hereby authorized to administer the emergency 911 telephone service in the city.

SECTION 7-315 COOPERATION

The city manager is hereby authorized to cooperate with other governing bodies who may impose a similar tax and who wish to participate in the city's emergency 911 telephone service.

SECTION 7-316 ADMINISTRATION FEE

The local exchange company providing exchange telephone service within the city shall be entitled to retain as an administrative fee three percent (3%) of the tax imposed and collected pursuant to this chapter.

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CHAPTER 4

UTILITIES TAX

- Section 7-401 Fee levied; application
- Section 7-402 Tax is in lieu of other taxes
- Section 7-403 Tax to be paid quarterly and placed in general revenue fund
- Section 7-404 Failure to pay; action for collection
- Section 7-405 Tax lien
- Section 7-406 Permit granted to gas companies in lieu of franchise

SECTION 7-401 FEE LEVIED: APPLICATION

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of gas in the city. Such tax shall apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water within the city limits, except that it shall not apply to any person, firm, association or corporation operating under a valid franchise from the city nor apply to utilities furnished by the city.

SECTION 7-402 TAX IS IN LIEU OF OTHER TAXES

The tax levied by this chapter shall be in lieu of any other franchise, license, occupation or excise tax levied by the city.

SECTION 7-403 TAX TO BE PAID QUARTERLY AND PLACED IN GENERAL REVENUE FUND

The tax levied under this chapter shall be payable quarterly and placed in the general revenue fund of the city.

SECTION 7-404 FAILURE TO PAY: ACTION FOR COLLECTION

Any person failing or refusing to pay the tax levied by this chapter shall be regarded as a trespasser and may be ousted from the city. In addition thereto, an action may be maintained against such person for the amount of the tax and all expenses of collecting same, including reasonable attorneys' fees.

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SECTION 7-405 TAX LIEN

The tax imposed by this chapter shall constitute a first and prior lien on all the assets located within the city of any person engaged in the business of selling power, light, heat, gas, electricity or water within the city and subject to such tax.

SECTION 7-406 PERMIT GRANTED TO GAS COMPANIES IN LIEU OF FRANCHISE

Any persons, firms, associations, or corporations engaged in the business of furnishing gas within the city limits, not operating under a valid franchise from the city, and upon whom the tax provided under Section 7-401 of this code is imposed, is hereby granted a revocable permit by the city for so long as this chapter remains in effect and the taxes are paid in accordance with the terms of this chapter to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate and maintain a system of works, pipes, pipelines, apparatus, structures and appurtenances in, across, upon and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parkings, driveways, rights-of-way, utility easements, and other public ways, places, areas and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places and grounds," in the city as now constituted, and as may be added to hereafter, for the purpose of transporting, distributing and selling gas for domestic, commercial and industrial uses, and for any and all other purposes for which gas, during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues and other public ways, places and grounds of the city for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing and repairing the works, pipes, pipelines and all necessary apparatus, machinery, structures and appurtenances.

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CHAPTER 5

USE TAX

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

SECTION 7-501 CITATION AND CODIFICATION

This chapter shall be known and may be cited as "City of Coweta Use Tax.

SECTION 7-502 DEFINITIONS

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

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1. "Tax collector" means the department of the city government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied; and
2. "Transaction" means sale.

SECTION 7-503 EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF INTANGIBLE, PERSONAL PROPERTY LEVIED

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the city tangible, personal property purchased or brought into this city, an excise tax on the storage, use or other consuming within the city of such property at the rate of three percent (3%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the city, tangible, personal property purchased or brought into the city. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the city and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the city, but which is stored in the city pending shipment outside the city or which is temporarily retained in the city for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the city had been levied on the sale of such goods or services.

SECTION 7-504 PURPOSE OF REVENUES

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

SECTION 7-505 EXEMPTIONS

The provisions of this chapter shall not apply:

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

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5. In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the city;
6. In respect to the use of any article of tangible, personal property brought into the city by an individual with intent to become a resident of this city where such personal property is for such individual's personal use or enjoyment;
7. In respect to the use of any article of tangible, personal property used or to be used by commercial airlines or railroads; or
8. In respect to livestock purchased outside Oklahoma and brought into this city for feeding or breeding purposes, and which is later resold.

SECTION 7-506 TIME WHEN DUE. RETURNS. PAYMENT

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

SECTION 7-507 TAX CONSTITUTES DEBT

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

SECTION 7-508 COLLECTION OF TAX BY RETAILER OR VENDOR

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this city shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this city and location of any and all distribution or sales houses or offices or other places of business in the city.

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SECTION 7-509 COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING A PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND WITHOUT STATE. PERMITS

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible, personal property for use in this city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible personal property sold to his knowledge for use within this city. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this city. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable city sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-510 REVOKING PERMITS

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission.

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SECTION 7-511 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be s

SECTION 7-512 INTEREST AND PENALTIES. DELINQUENCY

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

SECTION 7-513 WAIVER OF INTEREST AND PENALTIES

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purposes of this section the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter.

SECTION 7-514 ERRONEOUS PAYMENTS, CLAIM FOR REFUND

Refund of erroneous payment of the city use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter.

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SECTION 7-515 FRAUDULENT RETURNS

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

SECTION 7-516 RECORDS CONFIDENTIAL

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the city use tax as is herein set forth in full.

SECTION 7-517 CLASSIFICATION OF TAXPAYERS

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

SECTION 7-518 SUBSISTING STATE PERMITS

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

SECTION 7-519 PROVISIONS CUMULATIVE

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

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CHAPTER 6

TAX INCENTIVE DISTRICT

SECTION 7-601 TAX INCENTIVE DISTRICT NUMBER ONE

1. The Tax Incentive District Number One, City of coweta, Oklahoma Project Plan, as recommended by the Local Development Act Review Committee and the Coweta Planning Commission is hereby adopted and approved with amendment.
2. All actions taken, recommendations, findings and conclusions made in connection with Tax Incentive District Number One, City of Coweta, Oklahoma Project Plan by the Local Development Act Review Committee and the Coweta Planning Commission are hereby ratified and confirmed, including but not limited to recommendations for approval, findings of conformance with the Comprehensive Plan of the City of Coweta eligibility of the tax incentive district and financial impacts upon the taxing jurisdictions.
3. For identification purposes, the name of the tax incentive district shall be "Tax Incentive District Number One, City of Coweta."
4. That Tax Incentive District Number One, City of Coweta is hereby created as of the effective date of this ordinance.
5. The boundaries of Tax Incentive District Number One, City of Coweta are hereby adopted as set forth below:

A tract of land located in the northeast quarter of the northeast quarter of Section 13, Township 17 North, Range 15 East, Wagoner County, Oklahoma more particularly described as follows:

Commencing at the Northwest corner of said NE/4NE/4 thence south along the west line of said NE/4NE/4 a distance of 60 feet to the point of beginning; thence south continuing along the West line of said NE/4NE/4 a distance of 360 feet, thence east parallel to the north line of said NE/4NE/4 a distance of 360 feet, thence north parallel to the west line of said NE/4NE/4 a distance of 360 feet to a point located 60 feet south of the north line of said NE/4NE/4, thence west parallel to the north line of said NE/4NE/4 a distance of 360 feet to the point of beginning Containing 2.9752 acres more or less

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The district will consist of two parcels of land identified as Tract A and B and legally defined as follows:

Tract A:

A tract of land located in the northeast quarter of Section 13, Township 17 north, Range 15 east, Wagoner County, Oklahoma more particularly described as follows:

Commencing at the northwest corner of said NE/4NE/4 thence south along the west line of said E/4NE/4 a distance of 60 feet to the point of beginning; thence south continuing along the west line of said NE/4NE/4 a distance of 360 feet, thence east parallel to the north line of said NE/4NE/4 a distance of 300 feet, thence north parallel to the west line of said NE/4NE/4 a distance of 360 feet to a point located 60 feet south of the north line of said NE/4NE/4, thence west parallel to the north line of said NE/4NE/4 a distance of 300 feet to the point of beginning. Containing 2.4793 acres more or less.

Tract B:

Commencing at the northwest corner of said NE/4NE/4 thence east along the north line of said E/4NE/4 a distance of 300 feet, thence south parallel to the west line of said NE/4NE/4 a distance of 60 feet to the point of beginning: thence south parallel to the west line of said NE/4NE/4 a distance of 360 feet, thence east parallel to the north line of said NE/4NE/4 a distance of 60 feet, thence north parallel to the west line of said NE/4NE/4 a distance of 360 feet to a point 60 feet south of the north line of said NE/4NE/4, thence west parallel to the north line of said NE/4NE/4 a distance of 60 feet to the point of beginning. Containing .4959 acres more or less

6. In accordance with the Local Development Act the City Council of the City of Coweta finds:
 - A. The Tax Incentive District Number One, City of Coweta is eligible for designation as an incentive district by virtue of its boundaries being located within a reinvestment area as defined in 62 O.S. Supp. 1995, §853 (16).
 - B. That improvement within Tax Incentive District Number One, city of Coweta is likely to enhance the value of other real property in the area and to promote the general public interest.

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- C. That guidelines specified in paragraphs 1 and 2 of Section 3 of the Local Development Act 62 O.S. Supp. 1995, §852 have been and shall be followed in relation to Tax Incentive District Number One, City of Coweta, Oklahoma Project Plan.
- D. That the aggregate net assessed value of all taxable property in all districts, as determined pursuant to Section 13 of the Local Development Act, 62 O.S. Supp. 1995, §862, within the City of Coweta does and shall not exceed thirty-five percent (35%) of the total net assessed value of taxable property within the City of Coweta, Oklahoma.
- E. That the aggregate net assessed value of the taxable property in all districts, as determined pursuant to Section 13 of the Local Development Act, 62 O.S. Supp. 1995, §862, within the City of Coweta, Oklahoma does and shall not exceed twenty-five percent (25%) of the total net assessed value of any school districts located within the City of Coweta.
- F. That the land area contained with Tax Incentive District Number One, City of Coweta and all districts within the City of Coweta does and shall not exceed twenty-five percent (25%) of the total land area of the City of Coweta, Oklahoma.
- G. That the Tax incentive District Number One, City of Coweta, Oklahoma Project Plan is feasible and conforms to the Comprehensive Plan of the City of Coweta.
- H. In accordance with requirements of the Local Development Act, ad valorem taxes within Tax Incentive District Number One, City of Coweta may be exempted for a maximum of five (5) years on new investment made with Tax Incentive District Number One, City of Coweta, for the private development of residential living units. Eligible developments shall include new elderly congregate housing construction on vacant land, with Tax Incentive District Number One, City of Coweta. Finance and Taxation
- I. Exemptions from ad valorem taxes shall only be allowed for that portion of the tax under the jurisdiction of other taxing entities and subject to the terms of written agreements between the City of Coweta and each respective taxing entity, all pursuant to 62 O.S. Supp. 1995 §865.
- J. The City of Coweta shall enter into a written agreement with the property owners who are granted tax incentives or exemptions, pursuant to Section 11 of the Local Development Act, 62 O.S. Supp. 1995, §860, establishing the terms and conditions of the tax incentives and exemptions granted.

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- K. In accordance with requirements and public purposes of the Local Development Act, certain local fees and local sales taxes associated with the construction of new improvements including, but not limited to, building permit and building inspections fees and local sales taxes may be abated for eligible developments, pursuant to powers granted under 62 O.S. Supp. 1995 §854.
- L. The city of Coweta shall be and is hereby designated and authorized as the public entity to carry out and administer the provisions of Tax Incentive District Number One, City of Coweta, Oklahoma Project Plan, in accordance with its respective responsibilities, and to exercise all powers deemed necessary and appropriate, as provided in the Local Development Act, 62 O.S. Supp. 1995 §854.
- M. The City Manager of the City of Coweta, or his successor in office, shall be charged with implementation of the Tax Incentive District Number One, City of Coweta, Oklahoma Project Plan, in accordance with provisions, authorizations and delegations of responsibilities contained in the Local Development Act and the Tax Incentive District Number One, City of Coweta, Oklahoma Project Plan, provided the City Manager is authorized to empower one or more designees to exercise responsibilities in connection with the Plan.
- N. If any section, sentence, clause or phrase of this Ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance or any part thereof.
- O. **EMERGENCY CLAUSE.** That an emergency exists and for the preservation of the public peace, health and safety, by reason whereof this Ordinance shall be effective immediately from and after its passage, approval and publications.

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CHAPTER 7

PIPELINE CAPACITY LEASE PERMIT

Section 7-701	Definitions
Section 7-702	Permit Required
Section 7-703	Fees
Section 7-704	Permit Requirements
Section 7-705	Revocation and penalties

SECTION 7-701 DEFINITIONS

- A. City. Reference to City herein shall mean the City of Coweta.
- B. Consumer. Shall mean any individual person, corporation, company, partnership, firm, unincorporated association, trust or public corporation that uses or consumes natural gas in the City.
- C. Pipeline System. Shall mean a system of works, pipes, pipelines, apparatus, machinery, structures, appliances and appurtenances reasonably necessary for the transportation, distribution, or sale of natural gas.
- D. Lease. Shall mean a lease, a transportation agreement or other agreement, whether for compensation or not, to use or have access to part of the capacity of a Pipeline System by a consumer or to transport or to have gas transported to a consumer through a Pipeline System.
- E. Permit. Shall mean the right, licenses, and privileges granted by the City of Coweta to a consumer to use the public ways for a lease.
- F. Permittee. Shall mean a consumer granted a permit under this Ordinance.
- G. Public Ways. Shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, right of way, and any other public ways, places, areas or grounds within the corporate limits of the City of Coweta as now constituted or may be added hereafter.

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SECTION 7-702 PERMIT REQUIRED

No consumer shall receive or deliver gas within the City pursuant to a lease of any Pipeline System installed in the public ways, unless the consumer shall hold a valid permit from the City. Such permit shall be issued for the purpose of granting the Permittee authority to use the public ways.

SECTION 7-703 FEE

In consideration of the issuance of a Permit by the City, Permittee shall pay to the City a fee for the use of the public ways as follows:

- A. An amount equal to three (3%) percent of the purchase price of gas transported and received or delivered within the City under the lease, plus,
- B. For all Permittees not otherwise exempt from the payment of municipal sales taxes, an amount equal to three percent of the purchase price of the gas transported and received or delivered within the City under the Lease.

SECTION 7-704 PERMIT REQUIREMENTS

Any permit issued shall contain the following material terms:

- A. The Permittee shall pay the fee set forth in Section 7-703 to either the City or its designated agent on a monthly basis, as directed by the City;
- B. The Permittee shall subordinate its lease to the right of the City to construct, operate and maintain facilities in the public ways;
- C. The Permittee shall grant to the City the right to audit at reasonable times the books and records of the Permittee to verify the correct payment of the fee set forth in Section 7-703;
- D. The Permittee shall assume conjointly with the franchise holder or other party allowed use of the public ways for pipeline installation the indemnification terms of the franchise or other agreement insofar as the terms apply to the lease.

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Section 7-705 REVOCATION AND PENALTIES

A permit shall be revocable by the City Council of the City of Coweta at any time upon a ten (10) day prior written notice to Permittees;

Any violation of this ordinance shall be an offense. Any consumer adjudged guilty of violating this ordinance shall be punished by a fine of two hundred dollars (\$200.00), plus costs, for each offense, and each day of a continuing violation shall be deemed a separate offense.

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CHAPTER 8

Hotel / Motel Tax

Section 7-801	Definitions
Section 7-802	Tax Rate
Section 7-803	Exemptions
Section 7-804	Tax to be separately designated on bills
Section 7-805	Operators' Duties
Section 7-806	Bond Required
Section 7-807	Assessment and Determination of Tax
Section 7-808	Refunds
Section 7-809	Notices
Section 7-810	Remedies Exclusive
Section 7-811	General Powers of the City Manager
Section 7-812	Certificates of Registration
Section 7-813	Use of Funds
Section 7-814	Records Confidential
Section 7-815	Criminal Penalties
Section 7-816	Civil Remedies

SECTION 7-801 DEFINITIONS

As used in this ordinance:

- A. Hotel shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodation, and in which five or more rooms are used for the accommodation of such occupant whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist courts, lodging houses, inns, rooming houses, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents," and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration. The term shall not include hospitals, sanitariums or nursing homes.
- B. Occupancy shall mean the use of possession, or the right to the use or possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of the room or rooms.

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- C. Occupant shall mean the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.
- D. Operator shall mean any person operating a hotel within the city, included, but not limited to, the owner, proprietor, manager, lessee, sub-lessee, and mortgagee in possession, licensee, or any other person otherwise operating such hotel.
- E. Permanent Resident shall mean any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least ninety (90) consecutive days during the current calendar year or preceding year.
- F. Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction there from whatsoever.
- G. Return shall mean any report filed or required to be filed as herein provided.
- H. Room shall mean any room or suite of rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than as a "place of assembly."
- I. Place of Assembly shall mean a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiard, bowling and table tennis rooms; halls; rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar use and occupancy.
- J. Tax shall mean the tax levied pursuant to the ordinance.

SECTION 7-802 TAX RATE

There is hereby levied an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this City, except that the tax shall not be imposed where the rent is less than the rate of five dollars (5.00) per day.

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SECTION 7-803 EXEMPTIONS

A. Occupancy. The following shall be exempt from the tax levied in this ordinance:

1. Permanent residents;
2. The United State Government or any agency or division thereof;
3. The state of Oklahoma or any political subdivision thereof; and,

B. Certificate of Exemption Required. Anyone claiming to be exempt from the tax must obtain a certification from the City Manager that the person, organization, association or corporation with which the occupant affiliated is exempt from the tax. Prior to issuing such a certificate, the City Manager shall require a certification from the said organization, association or corporation that the occupant is its agent, representative or employee and that his or her occupancy of the room is required in connection with the affairs of said exempt organization, association or corporation.

SECTION 7-804 TAX TO BE SEPARTELY DESIGNATED ON BILLS

The operator shall separately designate charge and show the tax on all bills, statements, receipts or any other evidence of charge or payment of rent for occupancy issued or delivered by the operator. In the absence of a certificate of exemption as specified above, it shall be presumed that the rent on all occupancies is taxable, and the burden of proof shall be on the operator.

SECTION 7-805 OPERATORS' DUTIES

A. Operator Responsible for Collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax which shall be held in trust by the operator until paid to the city. The operator shall join the city as a party to any action brought by the operator to enforce collection of the tax.

B. Records to be Kept. Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the City Manager may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the City Manager, or a duly authorized agent or employee of the city, and shall be preserved for a period of three (3) years.

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- C. Returns.
1. Every operator shall file with the City Manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of the ordinance. Such return shall be filed within the first fifteen (15) days after the end of each such month.
 2. Each operator shall further file with the City Manager a copy of their completed Oklahoma state sales tax form within ten (10) days after June 30th, September 30th, December 31st, and March 31st of each year following the effective date of the ordinance.
 3. The form of return shall be prescribed by the City Manager and shall contain such information as may be deemed necessary for the proper administration of the ordinance. The City Manager may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.
- D. Payment of Tax. At the time of filing a return of occupancy and of rents, each operator shall pay to the City Treasurer the taxes imposed by the ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the City Treasurer on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.
- E. Interest. If any tax levied by the ordinance becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1 ½ %) per month on the unpaid balance from the date of delinquency.

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SECTION 7-806 BOND REQUIRED

Where the City Manager believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the City Manager deems it necessary in order to protect revenues under the ordinance may require such operator to file with the city a bond issued by a surety company authorized to transact business in the state in such amount as the City Manager may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the City Manager determines that an operator is to file such bond, the City Manager shall give notice to such operator specifying the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five (5) days the operator shall request in writing a hearing before the City Council, at which time the necessary propriety and amount of the bond shall be determined by the City Council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, a cash or securities escrow, in an amount and under terms approved by the City Manager, may be deposited with the City Manager, who may at any time after five (5) days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale.

SECTION 7-807 ASSESSMENT AND DETERMINATION OF TAX

If a return required by the ordinance is not filed, or if a return, when filed, is incorrect or insufficient, the amount of tax due shall be assessed by the City Manager from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax, (a) unless the person against whom it is assessed, shall apply in writing to the City Council within ninety (90) days after the City gives notice of such assessment, for a hearing; or (b) unless the City Manager decides to reassess the same. After such hearing, the City Council shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

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SECTION 7-808 REFUNDS

- A. Procedure. The City Manager shall direct the refund or credit of any tax erroneously, illegally or unconstitutionally collected if written application to the City Manager for such refund is made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative of the City Manager, subject to existing limits on the authority of the City Manager as to amount. The City Manager, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may be made by the person who has collected and paid such tax to the City Treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.
- B. Determination and Hearing. Upon application for a refund the City Manager may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination as to the refund, the City Manager shall give written notice thereof to the applicant. Such determination shall be final unless the applicant, within ninety (90) days after such notice shall apply in writing to the City Council for a hearing. After such hearing the City Council shall give written notice of its decision to the applicant.

SECTION 7-809 NOTICES

Notices provided for under this section shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the city to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by 7-812.

SECTION 7-810 REMEDIES EXCLUSIVE

The remedies provided in this chapter shall be the exclusive remedies available to any person for the review of tax liability imposed by this chapter.

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SECTION 7-811 GENERAL POWERS OF THE CITY MANAGER

In addition to all other powers granted to the City Manager, the City Manager is hereby authorized:

1. To make, adopt and amend rules and regulations appropriate to the execution of this chapter and for the purposes hereof;
2. To extend for cause shown the time for filing any return for a period not exceeding sixty (60) days; and for cause shown to waive, remit, or reduce penalties or interest;
3. To delegate functions hereunder to authorized designees for the city;
4. To assess, reassess, determine, revise and readjust the amount of taxes (but not the tax rate) imposed by this chapter;
5. To prescribe methods for determining the taxable and nontaxable rents;
6. To administer oaths and take affidavits concerning any matter or proceeding under this chapter;
7. To subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance and the enforcement of this chapter and to examine them in relation thereto.

SECTION 7-812 CERTIFICATES OF REGISTRATION

Every operator shall file with the City Manager a certificate of registration in a form prescribed by the City Manager within ten (10) days after the effective date of the ordinance, or in the case of operators commencing business or opening new hotels after such effective date, within three days after such commencement or opening. The City Manager shall, within five days after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable, non-transferable, and shall be surrendered immediately to the City Manager upon the cessation of business at the hotel named, or upon its sale or transfer.

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SECTION 7-813 USE OF FUNDS

- A. All taxes collected pursuant to this chapter shall be set aside and used exclusively to encourage, promote and foster, economic development, cultural enhancement and tourism in Coweta, Oklahoma and the cost of enforcing this chapter.
- B. The City of Coweta, Oklahoma is authorized to retain from the initial proceeds of the hotel tax an amount equal to the costs of the election concerning the ordinance and borne by the city.
- C. In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount not to exceed one percent (1%) of the current taxes due may be allowed to the operator by agreement. No discount shall be allowed for the payment of delinquent taxes.

SECTION 7-814 RECORDS OF CONFIDENTIAL

The confidential and privileged nature of the records file concerning the administration of the hotel tax is legislatively recognized and declared and, in order to protect the same, the provisions of 68 O.S. (1991), Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, are hereby adopted by reference and made fully effective and applicable to the administration of the Coweta, Oklahoma hotel Tax as if here set forth.

SECTION 7-815 CRIMINAL PENALTIES

- A. The willful intent or refusal of any taxpayer to make reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be deemed an offense and punishable as provided under the provisions of Section 1-108 of the Code of Ordinances of the City of Coweta, Oklahoma.
- B. The failure by an operator (1) to file a security bond as required, or (2) to register or to display the certificate of registration, or (3) to separately state the tax on the bill or to collect such tax from the occupant shall be deemed an offense and punishable as provided under the provisions of Section 1-108 of the Code of Ordinances of the City of Coweta, Oklahoma.

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SECTION 7-816 CIVIL REMEDIES

- A. Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this chapter as herein provided, the Mayor may authorize the director of finance to file notice of liens on behalf of the city against the real estate upon which the hotel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to 68 O.S. 1981, Section 2701 and Section 2704.
- B. The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68 O.S. 1981, Section 2704.
- C. The City Manager shall notify the person owing the tax by personal service or by certified mail that the City of Coweta, Oklahoma will file such liens if any delinquent lodging taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.
- D. The City Manager may also authorize the City Attorney to institute an action in personam and in rem to enforce payment and collect any delinquent taxes, penalties and/or interest.

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CHAPTER 9

PURCHASING SYSTEM

Section 7-901	Definitions
Section 7-902	City Purchasing Agent
Section 7-903	Encumbrance of Funds
Section 7-904	Prohibition of Interest
Section 7-905	Competitive Bidding Required
Section 7-906	Bidding Requirements
Section 7-907	Bidding Procedures
Section 7-908	Emergency Purchases

Section 7-901 DEFINITIONS

Unless otherwise provided herein, for the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory.

- A. City refers to the City of Coweta, Oklahoma, and means the City government in all its forms, including not only all City departments but also any agency, public trust, commission, board or other person or entity acting for or on behalf of the City of Coweta, provided, however, that any improvement district created pursuant to 11 O.S.1991, §§39-101, et seq., shall not be included in this definition thereby exempting such improvement districts from the provisions of this chapter.
- B. City Manager shall mean the chief executive officer of the City or his or her designee.
- C. City Purchasing Agent or Agent is the Purchasing Agent of the City, which shall be the City Manager or the designee of the City Manager of the City. The purchasing agent shall have the authority to delegate purchasing authority within the guidelines established for the city.
- D. Contractual Services means and includes, but is not limited to, all telephone, gas, water, electric light and power service; towel and cleaning service; leases for all grounds, buildings, office or other space required by the using agencies except leases from the state, a state agency, or a political subdivision (as defined herein); leases for all personal property required by the using agencies; and the rental, repair or maintenance of

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equipment, machinery and other city-owned personal property. The term shall not include professional services that are predominantly mental or intellectual in character rather than physical or manual and which do not involve the supplying of products. Professional services include services to support or improve municipal policy development, decision-making, management, administration, or the operation of management systems. Professional services include those as defined in Section 803 of Title 18 of the Oklahoma Statutes, those which are in their nature unique and not subject to competition, nor shall it include services or maintenance authorized and provided for an improvement district pursuant to 11O.S.1991, §39-103.1

- E. Cooperative Purchasing Plan shall mean an agreement entered into between two or more entities of government for acquisitions pursuant to a single or joint contract obtained through a competitive bidding process or issued in accordance with the authority granted to governmental entity. Government entities include all federal and state entities and municipalities with a population of 50,000 or greater.
- F. Council is the legislative body of the City of Coweta, Oklahoma.
- G. "Lowest and best" bidder and "best value" bidder shall have those meanings attributed to them by the laws of the State of Oklahoma.
- H. Political Subdivision shall mean a municipality, school district, county, or public trust with a city, town, school district or county as its sole beneficiary or beneficiaries, and all their institutions, instrumentalities or agencies.
- I. Supplies mean and include all supplies, materials and equipment.
- J. Using Agency is any department, board, commission, agency division, section, bureau or other unit in the City government using supplies or procuring contractual services as herein provided, except as otherwise exempted by this chapter.
- K. Purchasing and/or Procurement Card mean and include the commercial credit card issued to authorized City employees for the purchase of supplies and services.

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Section 7-902 CITY PURCHASING AGENT

The Purchasing Agent shall have the powers and duties prescribed herein.

A. Scope of Purchasing Authority.

1. The Agent shall have the power and it shall be the Agent's duty to purchase or contract for all supplies and contractual services needed by any using agency that derives its support wholly or in part from the City.
2. The Agent shall purchase or contract for those supplies and contractual services set forth herein in accordance with:
 - a. Purchasing procedures as prescribed by this title
 - b. Such written rules and regulations as the Agent shall adopt for the internal management and operation of the Division of Purchasing;
 - c. Such other written rules and regulations as shall be prescribed by the Charter and Ordinances of the City of Coweta.
3. All rules and regulations adopted by the Agent for the internal management and operation of the Division of Purchasing shall be approved by the Council and filed in the office of the City Clerk.
4. Except as herein provided, it shall be unlawful for any City officer or employee to order the purchase of any supplies or make any contract within the purview of this chapter, other than through the Purchasing Agent and any such purchase ordered or any contract made contrary to the provisions herein shall not be approved by City officers, and the City shall not be bound thereby.

B. Additional Powers and Duties

In addition to the purchasing authority conferred in Subsection A. above and in addition to any other powers and duties conferred by this chapter, the Agent shall perform the duties given herein.

1. Minimum Expenditure. The Agent shall act to procure for the City the highest quality in supplies and contractual services at least expense to the City.
2. Encourage Competition. The Agent shall discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

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3. Rules and Regulations. In conjunction with the Director of Finance, the Agent shall establish and amend, when necessary, rules and regulations authorized by this chapter and any others necessary to the operation of the Purchasing Division.
4. Purchasing Analysis. The Agent shall keep informed of current developments in purchasing, prices, market conditions and new products, and shall secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.
5. Supplier Catalog File. The Agent shall prepare, adopt and maintain a supplier catalog file, indexed according to materials and containing descriptions of vendors' commodities, prices and discounts.
6. Bulk Purchases. The Agent shall exploit the possibilities of buying in bulk so as to take full advantage of discounts.
7. Federal-and State Tax Exemptions. The Agent shall act so as to procure for the City all federal and state tax exemptions to which it is entitled.
8. Disqualification of Bidders. The Agent shall have the authority to declare that vendors who default on their quotations are unsecured bidders and to disqualify them from receiving any business from the municipality for a stated period of time.
9. Written Specifications. The Agent shall adopt and enforce written specifications as required to procure all supplies, equipment and services.
10. Standardization. The Agent shall adopt a minimum number of standard qualities, sizes and varieties of supplies consistent with the successful operation of the City government.
11. Effects of Adoption. After its adoption, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every future purchase and contract for the supply described in such specification.
12. Pre-Bid Conference. The Agent shall have the authority to conduct pre-bid conferences and make attendance mandatory for contractors wishing to submit a bid.

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13. Purchase Documentation. The Agent shall have the authority, by written policy, to establish purchase limits for those purchases that require purchase orders or written contracts, and to establish purchasing guidelines for employee usage of city issued purchase or procurement cards.

14. Advanced Purchasing Methods. The Agent shall have the authority to implement advanced purchasing methods, in lieu of traditional means of advertising and bidding. Said methods may take advantage of modern modes of electronic communication, through the use of email, internet, and other electronic devices or systems that may be available. Advertising methods that provide bidding opportunities to a broad base of bidders, so long as the goals and objections of this ordinance are accomplished, may be utilized. These methods include but are not limited to reverse auctions, online bidding and other similar electronic procurement methods.

15. Payment Procedure. The Finance Director or his/her designee shall accumulate all properly submitted and due claims and invoices to be processed for payment and present them to the City Manager or his/her designee for consideration and approval for payment. Upon such approval for payment, the City Treasurer or his/her designee shall issue properly signed checks, or other authorized forms of payment, in payment of said claims and invoices. A list of claims and invoices paid will be prepared and presented by the Finance Director or his/her designee and submitted, for informational purposes, to the City Council at the next regular meeting following the payment date.

16. The authority to represent the City at any Court ordered mediation or settlement conference, with full settlement authority without additional approval of the council.

17. The authority to contract, for the purpose of filling what have traditionally been employee positions, with either employees or independent contractors, if the expenditure will be within the limits of the budgeted funds.

18. The authority to expend funds for economic development projects or as economic development incentives up to the purchasing limit set by council.

19. The authority to deny tort claims that are within the purchasing authority of the city manager, and the authority to deny those claims in which the City's insurance carrier has investigated the claim and recommended denial.

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Section 7-903 ENCUMBRANCE OF FUNDS

Except in cases of emergency, the Agent shall not issue any order for delivery on a contract or open market purchase until the Director of Finance or his/her designee shall have certified, that there is to the credit of the using department a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order for such purposes.

Section 7-904 PROHIBITION OF INTEREST

- A. Any purchase order or contract within the purview of this chapter in which the Agent or any officer or employee, or spouse thereof, of the City is financially interested, directly or indirectly, shall be void.
- B. For purposes of this section "financially interested" shall mean ownership of more than twenty-five percent (25%) of the business or of the common stock therein or any percentage that constitutes a controlling interest, but shall not include any such interest held by a blind trust.

Section 7-905 COMPETITIVE BIDDING REQUIRED

All purchases of and contracts for supplies and contractual services as defined herein and all sales of personal property which has become obsolete and unusable shall be based on competitive bids whenever possible, except as specifically provided herein or otherwise required by law. Purchases and contracts related to construction projects, labor, equipment, material and repairs by public trusts shall comply with 60 O.S. §176(G) and construction projects shall comply with the Oklahoma Public Competitive Bidding Act, 61 O.S. §101 et. seq.

Section 7-906 BIDDING REQUIREMENTS

Except as otherwise required by law, the bidding requirements of the City shall be as follows:

A. Contractual Service Purchases

Contractual services shall be purchased by formal written contract as follows:

1. Contractual services, when the estimated cost thereof exceeds Fifty Thousand Dollars (\$50,000.00), shall be purchased from the lowest and best bidder or from the best value bidder, after due notice inviting bids.
2. Contractual services, when the estimated cost thereof is Fifty Thousand Dollars (\$50,000.00) or less, may be purchased using the open market procedure as provided for herein.

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B. Supplies, Material and Equipment Purchases

Supplies, material or equipment shall be purchased as follows:

1. All contractual purchases of supplies, materials, and equipment, when the estimated cost thereof exceeds Twenty-five Thousand Dollars (\$25,000.00), shall be purchased by formal written contract or by purchase order from the lowest and best bidder or from the best value bidder, after due notice inviting bids.
2. All contractual purchases of supplies, material, and equipment, when the estimated cost thereof is Twenty-five Thousand Dollars (\$25,000.00) or less may be purchased using the open market procedure provided for herein.

C. Construction Projects

Construction projects shall be purchased as follows:

1. All construction projects whereby the estimated cost thereof is over the amount set by the Oklahoma Public Competitive Bidding Act shall be bid in accordance with the requirements of that statute.
2. All construction projects whereby the estimated cost thereof is less than the amount set by the Oklahoma Public Competitive Bidding Act may be procured by written contract or by purchase order from the lowest and best bidder or from the best value bidder, using the open market procedure provided for herein.

D. Exception for Cooperative Purchases

Notwithstanding the foregoing limitations, competitive bidding shall not be required and the Purchasing Agent shall have the authority, instead, to make purchases from a Cooperative Purchasing Plan or under contracts let by the state of Oklahoma, when the best interests of the City would be served.

E. Surplus Property

No surplus or obsolete supplies, materials, or equipment of a value of more than one thousand dollars (\$1,000.00) may be sold until the council shall have declared them obsolete or surplus. Before the City Manager sells any surplus or obsolete supplies, materials, or equipment, except as otherwise provided herein, he shall advertise them for sale in a newspaper of general circulation in the city or give notice in such other manner as he or she deems necessary to

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adequately to reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by public auction. The City Manager may repeatedly reject all bids and advertise or give notice again. He or she may sell such supplies, materials, or equipment only to the highest responsible bidder for cash. In case of a tie, he or she may sell to either of the bidders tying, or may divide the sale among the two or more tying, always selling to the highest responsible bidder or bidders for cash.

Section 7-907 BIDDING PROCEDURES

The following bidding procedures shall apply to those purchases that require a competitive bidding procedure.

A. Notice Inviting Bids

1. Newspaper. The Agent shall cause to be published notice inviting bids in at least one (1) daily newspaper at least five (5) days preceding the last day set for the receipt of bids or conducting an auction. The newspaper notice required herein shall include a general description of the services required or the articles to be purchased or sold and shall state where bid forms and specifications may be obtained and the time and place for opening bids or the public auction.

2. Bidders' List. The Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "Bidders' List" maintained by the Agent by sending a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the Bidders' List shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

B. Bid Deposits

When deemed necessary by the Agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of surety where it has been required. A successful bidder shall forfeit any surety required upon failure on his part to enter a contract within ten (10) days after the award.

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C. Bid Opening Procedures

1. Sealed. Except in the case of public auctions, bids shall be submitted sealed to the office of the City Clerk and shall be identified on the envelopes as bids.
2. Opening. Bids for supplies, materials, equipment or contractual services shall be opened in public at the time and place stated in public notices.
3. Tabulation. A tabulation of all bids received shall be made by the Agent and the tabulation shall be available for public inspection in the office of the City Clerk at all reasonable times.

D. Rejection of Bids

1. Public Interest. The City shall have the authority to reject all bids, parts of any or all bids, or all bids for anyone or more supplies or contractual services included in the proposed contract when the public interest will be served thereby.
2. Undue Influence. Bids shall be rejected if any bidder has attempted to exert undue influence over the results of the bid including:
 - a. The bidder or anyone subject to the bidder's direction or control attempts to pay, give or donate to any officer or employee of the City any money or other thing of value, either directly or indirectly, in procuring the bid; or
 - b. The bidder or anyone subject to the bidder's direction or control attempts to influence the award of the bid by threat, force or intimidation.
 - c. Any other contact by bidder to any officer or employee of the City other than the designated agent, which in the opinion of the Agent was an attempt to unduly influence the award of the bid.
3. Bidders in Default to City. The City shall not accept the bids of a contractor who is in default on the payment of taxes, licenses or other monies due the City.
4. Bidders Not Attending Pre-Bid Conference. The City shall not accept the bids of a contractor who did not attend a mandatory pre-bid conference.

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E. Award of Contract

1. Authority in the City Manager. The City Manager shall have the authority to award contracts and make purchases in an amount established by council by resolution, and shall have the authority to bind the city and its' agencies in that regard.
2. Lowest and Best Bidder and Best Value Bidder. Contracts shall be awarded to the lowest and best bidder or the best value bidder meeting specifications. Bid Specifications may include a point system for evaluating the bid. In addition to those factors established by state law, the following factors shall be considered:
 - a. The price,
 - b. The ability, capacity and skill of the bidder to perform the contract or provide the service required,
 - c. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference,
 - d. The character, integrity, reputation, judgment, experience and efficiency of the bidder,
 - e. The quality of performance of previous contracts or services,
 - f. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service,
 - g. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service,
 - h. The quality, availability and adaptability of the supplies or contractual services to the particular use required,
 - i. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract,
 - j. Where an earlier delivery date would be of great benefit to the requisitioning agency, the date and terms of delivery may be considered in the bid award,
 - k. The number and scope of conditions attached to the bid, and
 - i. If a point system has been utilized in the bid specifications, the number of points earned by the bidder.

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F. Award to Other than Lowest Secure Bidder

When the award is not given to the lowest secure bidder meeting specifications, such award must be approved by the Council and a full and complete statement of reasons for placing the order with one other than the lowest secure bidder shall be entered in the minutes of the Council.

G. Tie Bids

a. Local Bidders. If two or more bids received are for the same total amount of unit price, quality and service being equal, the contract shall be awarded to the local bidder.

b. Bidders of Equal Status. Where paragraph G.a. of this section is not determinative, the Agent shall award the contract to one of the tie bidders by drawing lots in public.

H. Change Orders

If a bid has been based on a unit price bid, change orders shall be allowed based on the Bid unit price without additional advertisement or bidding.

I. Performance Bonds

Before entering a contract, the Agent shall have the authority to require a performance bond in such amount as he shall find reasonably necessary to protect the best interests of the City.

J. Prohibition Against Subdivision

No contract or purchase shall be subdivided to avoid the requirements of this section.

K. Open Market Procedure

All purchases of supplies, materials, or equipment having an estimated cost less than Twenty-five Thousand Dollars (\$25,000.00), and all sales of personal property which has become obsolete and unusable, of less than the estimated value of One Thousand Dollars (\$1,000.00), may be made on the open market, without newspaper advertisement and without observing the procedure prescribed in this section for the award of formal contracts.

1. Minimum Number of Bids. All open market purchases in excess of Two Thousand Five Hundred Dollars (\$2,500.00) shall, whenever possible, be based on competitive market quotation bids as set forth below, and shall be awarded to the lowest secure bidder in accordance with the standards set forth herein. For purchases from \$2,500.00 to \$24,999.99, Buyer shall make at least three (3) solicitations (written/telephone) for competitive market quotation bids.

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2. Recording. The Agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall be open to public inspection at all reasonable times.

L. Waiver of Competitive Bidding

The City Council may waive the requirement for competitive bidding for the purchase of supplies, materials, equipment or contractual services when some material feature or characteristic of the item or service sought to be purchased is unique and the Purchasing Agent has certified that to the best of his knowledge, after diligent inquiry, the item or service is available from only one source. The Purchasing Agent may require the department head or official requesting the bid waiver to submit an affidavit identifying the unique and material features or characteristics of the item or service. A full and complete statement of the reasons for approving each waiver of competitive bidding shall be filed with the City Clerk.

Section 7-908 EMERGENCY PURCHASES

A. By Agent. In Case of an apparent emergency which requires immediate purchase of supplies or contractual services, the City Manager, in an amount set by council by resolution, shall be empowered to grant written authorization to the Agent to secure by open market procedure as herein set forth, at the lowest obtainable price, any supplies or contractual services, regardless of the amount of the expenditure. A full report of the circumstances of the emergency purchase shall be filed by the Agent with the City Clerk and shall be open to public inspection.

B. By Department Head. In case of actual emergency occurring during normal office hours the head of any using agency may, with the consent of the Agent and the approval of the City Manager, purchase directly any supplies or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the citizens.