

# FINANCE AND TAXATION

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#### SECTION 7-101 DEPOSITORIES DESIGNATED: FUNDS TO BE DEPOSITED.

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

State Law Reference: Deposits by treasurers, designation of depositories; 11 O.S. Section 12-110.

#### SECTION 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

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

State Law Reference: Unit Collateral System, 62 O.S. 516.1 et seq.

#### SECTION 7-103 CONTRACTUAL SERVICES DEFINED FOR PURCHASING.

"Contractual services," for the purpose of this chapter, means services performed for the town by persons not in the employment of the town, and may include the use of equipment or the furnishing of commodities in connection with said services under express or implied contract. Contractual services shall include travel; freight; express; parcel post; postage; telephone; telegraph; utilities; rents; printing out; binding; repairs, alterations and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the town; and other services performed for the town by persons not in the employment of the town.

SECTION 7-104 PURCHASES. HOW MADE.

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

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

Every contract for, or purchase of, supplies, materials, equipment or contractual services for more than Two Thousand Dollars (\$2,000.00) shall require the prior approval of the town board of trustees; and under no circumstances may such contract or purchase be made without first obtaining the approval of the board of trustees.

State Law Reference: Purchase Order Act, 62 O.S. Sections 310.1 et seq.

SECTION 7-106 COMPETITIVE BIDDING (Repealed 10/14/99)

All the requirements for competitive bidding shall be those outlined in Titles 60 and 61 of the Oklahoma Statutes. (Added 10/14/99)

SECTION 7-107 WHEN COMPETITIVE BIDDING IS NOT REQUIRED.  
(Repealed 10/14/99)

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

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 town board of trustees have declared them obsolete or surplus. Before the town board of trustees sells any surplus or obsolete supplies, materials or equipment, except as otherwise provided below, they shall be advertised for sale in a newspaper of general circulation in the town or give notice in such other manner as the board of trustees deems necessary adequately to reach prospective buyers to give them opportunity to make bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The town board of trustees may repeatedly reject all bids and advertise or give notice again. The town board of trustees shall sell such supplies, materials or equipment to the highest responsible bidder for cash. In case of a tie, the board of trustees may sell to either of the bidders tying, or may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders for cash.

SECTION 7-109      WHEN COMPETITIVE BIDDING IS NOT REQUIRED ON SALES.

The town board of trustees may sell the following without giving an opportunity for competitive bidding:

1. Surplus or obsolete supplies, materials or equipment whose total value does not exceed One Thousand Dollars (\$1,000.00) in a single transaction; and

2. Supplies, materials or equipment when sold at a price at least as great as that paid by the town for the same.

SECTION 7-110      TOWN CLERK OR MAYOR TO EXECUTE WARRANTS AND CHECKS ON BEHALF OF THE TOWN.

From and after October 1, 1992, either the mayor or the town clerk shall be authorized to execute checks or warrants on behalf of the town. (Added 1992)

## CHAPTER 2

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#### SECTION 7-201      CITATION AND CODIFICATION.

This chapter shall be known and may be cited as "Town of Porter Sales Tax Ordinance."

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

Ed. Note: Ord. No. 86'1, 11/9/88, added a one percent tax, increasing the total to 3%. Ord. No. 88-3, 11/9/88, added an additional one percent (for a total of 4%), earmarked as provided herein.

SECTION 7-202      DEFINITIONS.

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

SECTION 7-203      TAX COLLECTOR DEFINED.

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

SECTION 7-204      CLASSIFICATION OF 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 town permit for the same purpose.

SECTION 7-206      EFFECTIVE DATE.

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

SECTION 7-207      PURPOSE OF REVENUES.

A      It is hereby declared to be the purpose of the ordinances levying three and one-half percent (3 ½ %) sales tax are to provide revenues for the support of the functions of the municipal government of the town and its authorities.

B.      It is hereby declared that the purpose of Ord. 88-3 is that revenues derived from one-half percent (½ %) sales tax levied be used for street repairs of the town and its authorities. (Amended 1988)

SECTION 7-208      TAX RATE -SALES SUBJECT TO TAX.

There is hereby levied an excise tax of four percent (4 % ) upon the gross proceeds or gross receipts derived from all sales taxable under the 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 prewritten programs have been coded, punched or otherwise recorded;
9.      Food, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;
10.     Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;



11. Dues or fees to clubs including free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made, including any fees paid 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 there from;

17. Gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. Provided if the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

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

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

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.

(Amended 1986, 1988)

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 casing head gas and other products subject to gross production tax under state law. This exemption shall not apply when such products are sold to consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state; and

4. Sale of aircraft on which the tax levied pursuant to Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid. The provisions of this paragraph 4 shall not become operative until July 1, 1984.

SECTION 7-210      EXEMPTIONS; GOVERNMENTAL AND 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;

2. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

3. Sale of food in cafeterias or 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;

4. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members;

5. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

6. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

7. Sales of tangible personal property or services to the town board of trustees by organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls shall be exempt from sales tax; or

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

SECTION 7-211 EXEMPTIONS; GENERAL.

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

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00) or local transportation of persons within the corporate limits of a municipality except by taxicab;

3. Carrier sales of newspapers and periodicals made directly to consumers. Other sales of newspapers and periodicals where any individual transaction does not exceed seventy-five cents (\$0.75). A carrier is a person who regularly delivers newspapers or periodicals to subscribers on an assigned route;

4. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this chapter. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit;

5. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

6. Eggs, feed, supplies; machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that he is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the 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; and

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

SECTION 7-212      EXEMPTIONS; AGRICULTURE.

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

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

- a. Farm, orchard or garden products;
- b. Dairy products sold by a dairyman or farmer who owns all the cows from which the dairy products offered for sale are produced;
- c. Livestock sold by the producer at a special livestock sale; and
- d. The provisions of this paragraph shall not be construed as exempting sales by florists, nurserymen or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

2. Sale of baby chicks, turkey 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;

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

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption.
- b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products;
- c. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;
- d. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;

- e. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and
- f. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes ( an invoice or 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;

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

- a. Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming and/or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is so engaged in farming and/or ranching and that the material purchased will be used only in such business;
- b. Sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming and/or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that he is engaged in the business of applying such materials to lands owned leased and operated by persons regularly engaged, for profit, in the business of farming and/or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which said materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;
- c. Sales of agricultural fertilizer to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this chapter, and said sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer" means any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants;

- d. Sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming and/or ranching. This section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens;
- e. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming and/or ranching. For the 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 micro-organisms 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; or

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



SECTION 7-213      EXEMPTIONS; MANUFACTURERS.

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

1. Goods, wares, merchandise and property purchased for the purpose of being used or consumed In the process of manufacturing, compounding, processing, assembling or preparing for sale a finished article and such goods, wares, merchandise or property become integral parts of the manufactured, compounded, processed, assembled or prepared products or are consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by state law;

3. Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in Oklahoma. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under this chapter. The term "manufacturing plants" means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this code. This exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise; or

5. Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state.

SECTION 7-214      EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS.

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

1.      The transfer of tangible personal property, as follows:
  - a.      From one corporation to another corporation pursuant to a reorganization, As used in this subparagraph the term "reorganization" means a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
  - b.      In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;
  - c.      To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the property prior to the transfer;
  - d.      To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer; or
  - e.      From a partnership to the members thereof when made in kind in the dissolution of such partnership; or
2.      Sale of an Interest In tangible personal property to a partner or other person who after such sale owns a joint Interest In such tangible personal property where the state sales or use tax has previously been paid on such tangible personal property.

SECTION 7-215      TAX DUE WHEN; RETURNS; RECORDS.

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

SECTION 7-216      PAYMENT OF TAX; BRACKETS.

A.      The tax herein levied shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax.

B.      The bracket system for the collection of the town sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the town and the tax collector, in the collection of both the town sales tax and the state sales tax.

SECTION 7-217      TAX CONSTITUTES DEBT.

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

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

A.      The tax levied hereunder shall be paid by the consumer or user to the vendor. It is the duty of each and every vendor in this town to collect from the consumer or user the full amount of the tax levied by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

B.      Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

C.      A vendor, as defined hereunder, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or willfully or Intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in Section 1-108 of this code.

D.      Any sum or sums collected or required to be collected in accordance with this chapter shall be deemed to be held in trust for the town. Any person, firm, corporation, joint venture or association that willfully or intentionally fails, neglects or refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in Section 1-108 of this code.

SECTION 7-219      RETURNS AND REMITTANCES; DISCOUNTS.

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

SECTION 7-220      INTEREST AND PENALTIES; DELINQUENCY.

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

SECTION 7-221      WAIVER OF INTEREST AND PENALTIES.

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

SECTION 7-222      ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

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

SECTION 7-223      FRAUDULENT RETURNS.

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

SECTION 7-224      RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the town sales tax is legislatively recognized and declared, and to protect the same 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 town sales tax as if here set forth in full.

SECTION 7-225      AMENDMENTS.

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

SECTION 7-226      PROVISIONS CUMULATIVE.

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

## CHAPTER 3

### TELEPHONE EXCHANGE TAX

Section 7-301      Fee levied on telephone exchanges.  
Section 7-302      Fee to be in lieu of other fees, taxes.

#### SECTION 7-301      FEE LEVIED ON TELEPHONE EXCHANGES.

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

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

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

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