

PART 7

FINANCE AND TAXATION

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- 2 Sales Tax
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Chapter 1

FINANCE
ADMINISTRATION

AND

BUDGET

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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.

State Law Reference: Deposits by treasurers, designation of depositories; 11 O.S. Section 10-118.

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.

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

7-103 Contractual services defined for purchasing.

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

7-104 Purchases--How made.

A. All purchases of supplies, materials, equipment and contractual services for the offices, departments and agencies of the city government, shall be made by the city’s purchasing authority or pursuant to authorizations granted by the mayor and council, and subject to their supervision and control.

B. The mayor or the mayor’s designee is authorized to make decisions for the purchase of goods, services or material, including, but not limited to, the decision to purchase same, the quantity and quality of same and the source of supply, without approval of the city council in such amounts not to exceed five thousand dollars (\$5,000.00) per transaction. The goods, services, labor or supplies shall be purchased after such reasonable notice as the city mayor or the mayor’s designee may direct. (Ord. No. 6/2/80B, 6/2/80; Ord. No. 619, 6/21/76; Ord. 11-3-97A § 1)

7-105 Purchasing procedure.

A. Any person purchasing equipment, services, labor or supplies for the city shall give the seller thereof the following information:

1. The specific department of city government to which the charge is to be made;
2. The name of the person authorizing the purchase or repair; and
3. The truck or vehicle number or specific piece of property on which the purchase is to be used. Serial numbers shall be used whenever possible.

B. A copy of an invoice or ticket prepared by the seller shall be given to the department head upon the day in which the debt is incurred, to be filed and matched when the statement is received, so the account can be reconciled for payment.

C. All invoices and bills presented to the city shall bear the information set out in subsection A of this section.

D. Any charges billed to the city not bearing the information outlined above will not be certified or presented to the council for approval until such time as this information has been furnished.

E. It is the responsibility of the head of each city department to acquaint the workers with the guidelines set forth above. (Ord. No. 1-80, 1/6/80)

7-106 Competitive bidding.

Before the city makes any purchase of, or contract for, supplies, materials, equipment or contractual services, except as otherwise provided below, the purchasing officer shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation, or invitation to bid, and specifications, to give them opportunity to bid; or publish notice of the proposed purchase in a newspaper of general circulation within the city. The purchasing officer shall favor a person, firm or corporation in the city when this can be done without addi-

tional cost to the city; but the purchasing officer shall submit requests for quotation to those outside the city when this may be necessary to secure bids or to create competitive conditions, or when the purchasing officer thinks that by so doing the purchasing officer can make a saving for the city; and shall purchase from them when the purchasing officer can make a saving for the city. All bids shall be sealed and shall be opened in public at a designated time and place. The purchasing officer may repeatedly reject all bids, and again may submit to the same or other persons, firms or corporations the request for quotation, or invitation to bid, or again publish notice of the proposed purchase. The purchasing officer may purchase from the bidder whose bid is most advantageous to the city, considering price, quality, date of delivery and so on, and in case of a tie, may purchase from one of those tying, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the city.

State Law Reference: Public Competitive Bidding Act requirements, capital improvements and repairs, 60 O.S. Sections 101 et seq.

7-107 When competitive bidding is not required.

The following may be purchased without giving an opportunity for competitive bidding. For the purpose of this section, competitive is as defined in Section 7-106 of this code:

1. Supplies, materials, equipment or contractual services whose cost does not exceed five thousand dollars (\$5,000.00) in a single transaction;
 - 1.1. Supplies, material, equipment or contractual services whose cost does not exceed twenty-five thousand dollars (\$25,000.00) provided that prior to the expenditure of such sums (1) the city has received three (3) written quotes, and (2) the city council has approved such expenditures;
2. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever bought;
3. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including government surplus;
4. Equipment to replace existing equipment which has become inoperable when the board of trustees declares the purchase an emergency;
5. Contractual services, including but not limited to natural gas, electricity, telephone service, purchased from a public utility at a price or rate determined by the State Corporation Commission or other governmental authority;
6. Supplies, materials, equipment or contractual services when purchased at a price not exceeding a price set thereof or by the state purchasing agency or any other state agency hereafter authorized to regulate prices for things purchased by the state, whether such price is determined by a contract negotiated with a vendor or otherwise;
7. Employee health insurance;
8. Contractual services of a professional nature, such as engineering, architectural and medical services unless competitive bidding is required by applicable law or regulations; and
9. Emergency purchases as authorized by the mayor and council. (Ord. No. 4-16-90.1; Ord. 11-3-97B § 1; Ord. 26-050503 § 1)

7-108 Sales, council 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 city council shall have declared them obsolete or surplus. Before the city sells any surplus or obsolete supplies, materials or equipment, except as otherwise provided below, the city purchas-

ing officer shall advertise them for sale in a newspaper of general circulation in the city or give notice in such other manner as the city purchasing officer deems necessary adequately to reach prospective buyers to give them opportunity to make necessary 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 city may repeatedly reject all bids and advertise or give notice again. The city purchasing officer shall sell such supplies, materials or equipment to the highest responsible bidder. In case of a tie, if necessary, the city purchasing officer shall cast lots to determine to whom to sell, or the city purchasing officer may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders.

7-109 When competitive bidding is not required on sales.

The city 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 city for the same.

7-110 Officers--Purchases--Contracts.

A. No member of the city council may sell, or furnish for a consideration, any materials or supplies for use of the city; and any member of the council voting for, or consenting to, or being a party to, such contract or purchase is personally liable as provided by law.

B. The city council may not make any contract with any of its members, or in which any of its members shall be directly or indirectly interested, such contracts being prohibited by law.

C. No officer of the city may become directly or indirectly interested individually in any sale, lease, or contract which he is authorized to make, such being prohibited by law.

State Law Reference: Personal liability for contracts where board of trustees member is a party, 62 O.S. Section 355-357; contracts where board of trustees has an interest, 12 O.S. 371; officers' interest in contracts, 21 O.S. Section 344.

7-111 Funding and accounting generally.

The revenues and other resources of the city shall be divided into funds as provided by law and accounted for as provided thereby.

7-112 Claims and invoices--How made and processed.

Claims and invoices against the city shall be made and processed as provided by law.

7-113 Warrants--Disbursement of funds.

Warrants shall be issued and processed, and funds of the city disbursed, only for legal purposes and in accordance with law.

Chapter 2

SALES TAX

Sections:

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7-201 Citation and codification.

This chapter shall be known and may be cited as "City of Bristow Sales Tax Ordinance." (Prior Code, Chapter 10, as amended)

Editor's Note: Ordinance Number 519, effective August 1, 1967, levied a one cent tax. Ordinance Number 606, effective May 1, 1976, levied the second one cent tax. Ord. No. 102786, effective December 16, 1986, levied a third one cent tax earmarked as provided herein. The term of the third cent sales tax is until 1987 Municipal Authority debt is paid. Ordinance Number 4-3-95, effective June 13, 1995, has amended the provisions of this chapter by increasing the excise tax to three and one-half percent and providing for the continuation of the tax levy until either the indebtedness is repaid in full or until September 1, 2015, whichever comes first.

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.

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended; Ord. No. 102786, 10/27/86)

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. (Prior Code, Chapter 10, as amended)

7-207 Purpose of revenues.

A. It is the purpose of the first cent sales tax to provide revenues for the support of the functions of the municipal government of the city.

B. It is hereby declared to be the purpose of this third cent sales tax to:

1. Provide funds to secure and to provide funds to repay or refund certain indebtedness heretofore or hereafter issued by the Municipal Authority of the city, such indebtedness having been heretofore incurred or as shall be hereafter incurred to finance the improvements to the municipal utility or street systems for the beneficiary city, and to pay related professional expenses and costs of issuance of such obligations; or

2. Provide general revenues to the city of any funds in excess of those required for paragraph 1 above. (Prior Code, Chapter 10, as amended; Ord. No. 102786, 12/27/86)

Editor's Note: Ordinance 102786 levying the third cent tax provides that all of the provisions thereof shall be and remain effective and unabated until, through and including the date all series of indebtedness of the Municipal Authority of the city issued during 1987 and evidenced by the issuance of such Authority's bond, notes or other evidences of indebtedness shall be paid in full, after which time the ordinance, and the additional sales tax provided and levied hereby, shall thereupon and then terminate without any further act or deed.

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 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 therefrom;
17. Gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. Provided if the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;
18. Any licensing agreement, rental, lease or other device or instrument whereby rights to possess or exhibit motion pictures or filmed performances or rights to receive images, pictures or performances for telecast by any method are transferred. Provided, persons regularly engaged in the business of exhibiting motion pictures for

which the sale of tickets or admissions is taxed under this article 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. (Prior Code, Chapter 10, as amended; Ord. No. 102786, 10/27/86)

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 nonintoxicating beverages on which the tax levied by state law has been paid;
2. Sale of cigarettes and such tobacco products on which the tax levied by state law has been paid;
3. 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;
4. 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; and
5. 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. (Prior Code, Chapter 10, as amended)

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 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.A. and the Campfire Girls shall be exempt from sales tax;

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

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. (Prior Code, Chapter 10, as amended)

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;

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 programs; 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. (Prior Code, Chapter 10, as amended)

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; 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. 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 other generally recognized animal feeds for the following purposes and subject to the following limitations:

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

f. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or 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 or leased and operated by persons regularly engaged, for profit, in the business of farming and/or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which the materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;

c. Sales of agricultural fertilizer to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this chapter, and the sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer" means any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants;

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

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

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. (Prior Code, Chapter 10, as amended)

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;

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; and

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. (Prior Code, Chapter 10, as amended)

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; 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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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 wilfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or wilfully 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 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 city. Any person, firm, corporation, joint venture or association that wilfully or intentionally fails, neglects or refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

7-223 Fraudulent returns.

In addition to all civil penalties provided by this chapter, the wilful 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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended)

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. (Prior Code, Chapter 10, as amended; Ord. No. 102786, 10/27/86)

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. (Prior Code, Chapter 10, as amended; Ord. No. 102786, 10/27/86)

Chapter 3

TELEPHONE EXCHANGE TAX

Sections:

7-301 Fee levied on telephone exchanges.

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

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.

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

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.

Chapter 4

UTILITY TAX

Sections:

- 7-401 Utility tax levied.
- 7-402 Not to apply to franchises.
- 7-403 Payment of tax.
- 7-404 Failure to pay tax.
- 7-405 Tax constitutes lien.

7-401 Utility tax levied.

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, which tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by such city, all as provided by state law. (Ord. No. 619, 6/17/76)

State Law Reference: Utility tax authorized for municipalities, 68 O.S. Sections 2601 et seq.

7-402 Not to apply to franchises.

The tax levied under this chapter shall, when levied, apply to all persons, firms, associations, or corporations engaged in business of furnishing gas or electricity within the city limits, except it shall not apply to any person, firm, association, or corporation operating under a valid franchise from the city. (Ord. No. 619, 6/17/76)

7-403 Payment of tax.

The tax levied under this chapter on gas receipts shall be levied for a term of not less than one year and shall be payable monthly and placed in the general revenue fund of the city. (Ord. No. 619, 6/17/76)

7-404 Failure to pay tax.

Any person, firm or corporation failing or refusing to pay such tax when levied shall be regarded as a trespasser and may be ousted from such city and in addition thereto, an action may be maintained against such person, firm or corporation for the amount of the tax, and all expenses of collecting same, including reasonable attorneys fees. (Ord. No. 619, 6/17/76)

7-405 Tax constitutes lien.

The tax so imposed shall constitute a first and prior lien on all the assets located within the city of any person, firm, or corporation engaged in the business of selling gas within the city limits. (Ord. No. 619, 6/17/76)

Chapter 5

MISCELLANEOUS FEES

Sections:

7-501 Fee for certification of special assessments.

7-501 Fee for certification of special assessments.

There shall be a fee of five dollars (\$5.00) collected by the city clerk for services rendered in providing a certification as to the existence or nonexistence of special assessments by the city against any parcel of real estate. (Ord. No. 9-6-94A)

Chapter 6

TRANSIENT OCCUPANCY TAX

Sections:

- 7-601 Title and purpose.
- 7-602 Definitions.
- 7-603 Tax imposed.
- 7-604 Exemptions.
- 7-605 Operator's duties.
- 7-606 Registration.
- 7-607 Returns.
- 7-608 Payment of tax.
- 7-609 Bond required.
- 7-610 Penalties and interest.
- 7-611 Failure to collect and report tax; determination of tax by city clerk.
- 7-612 Appeal.
- 7-613 Records.
- 7-614 Refunds.
- 7-615 Actions to collect.
- 7-616 Penalty.
- 7-617 Effective date.

7-601 Title and purpose.

This chapter shall be known as the "Uniform Transient Occupancy Ordinance." The intent and purpose is to impose a tax upon transient occupancy in any hotel or motel within the city and to provide a means for the collection thereof. (Ord. No. 9-6-94B)

7-602 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, loading, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, house, rooming house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

"Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

“Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and service of any kind or nature, without any deduction therefrom whatsoever.

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the occupant has paid in advance for over thirty (30) days occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effect date of this chapter may be considered. (Ord. No. 9-6-94B)

7-603 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of three and one-half percent (3½%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the city clerk may require that such tax shall be paid directly to the city clerk. (Ord. No. 9-6-94B: Ord. 23-070102 § 1)

7-604 Exemptions.

A. No tax shall be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;

2. The United States Government or any agency or division thereof; or

3. The state of Oklahoma or any political subdivision thereof.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected upon a form prescribed by the city clerk. (Ord. No. 9-6-94B)

7-605 Operator’s duties.

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. All taxes collected by operators pursuant to this chapter, shall be held in trust for the account of the city until payment thereof is made to the city clerk. (Ord. No. 9-6-94B)

7-606 Registration.

Within thirty (30) days after the effective date of this chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel

with the city clerk and obtain from him a “transient occupancy registration certificate” to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

1. The name of the operator;
2. The address of the hotel;
3. The date upon which the certificate was issued;
4. “This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the city clerk for the purpose of collecting from transients the Transient Occupancy Tax and remitting the tax to the city clerk. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in any unlawful manner, nor to operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the city of Bristow. This certificate does not constitute a permit.” (Ord. No. 9-6-94B)

7-607 Returns.

A. Every operator shall file with the city clerk a return of occupancy, rents and taxes payable on a per-month basis. The return shall be due from the operator and taxes payable thereon to the controller within fifteen (15) days of the tax period accounted for in such return.

B. Returns and payments are due immediately upon cessation of business for any reason. (Ord. No. 9-6-94B)

7-608 Payment of tax.

At the time of filing a return of occupancy, rents, and taxes, each operator shall pay to the city clerk the taxes imposed by this chapter upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this chapter. (Ord. No. 9-6-94B)

7-609 Bond required.

Where the city clerk 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 clerk deems it necessary in order to protect revenues under this chapter, the city clerk may require such operator to file with the city a bond issued by a surety company authorized to transact business in this state in such amount as the city clerk may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. (Ord. No. 9-6-94B)

7-610 Penalties and interest.

A. Original delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax.

B. Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed.

C. Fraud. If the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half of one percent (1½%) per month or fraction thereof on

the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties merged with tax. Every penalty imposed and such interest as accrues under the provision of this section shall become a part of the tax herein required to be paid. (Ord. No. 9-6-94B)

7-611 Failure to collect and report tax; determination of tax by city clerk.

If any operator shall fail or refuse to collect the tax and to make within the time provided in this chapter, any report or remittance of the tax or any portion thereof required by this chapter, the city clerk shall proceed in such manner as the city clerk may deem best to obtain facts and information on which to base the estimate of the tax due. As soon as the city clerk shall procure such facts and information as the city clerk is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the city clerk shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the city clerk shall give a notice of the amount so assessed by serving the notice personally or by depositing the notice in the United States mail, postage prepaid, addressed to the operator so assessed at his last known address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the city clerk for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the city clerk shall become final and conclusive and immediately due and payable. If such application is made, the city clerk shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at the hearing at a time and place fixed in the notice why the amount specified there should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the city clerk shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein as such determination and the amount of such tax, interest and penalty. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in SECTION 7-612 of this chapter. (Ord. No. 9-6-94B)

7-612 Appeal.

Any operator aggrieved by any decision of the city clerk with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. No. 9-6-94B)

7-613 Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the city, which records the city clerk shall have the right to inspect at all reasonable times. (Ord. No. 9-6-94B)

7-614 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section; provided, a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the city clerk within two (2) years of the date of the payment. The claim shall be on forms furnished by the city clerk.

B. Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the city clerk that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rents subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the city clerk, or when the transient having paid the tax to the operator, establishes to the satisfaction of the city clerk that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written record showing entitlement thereto. (Ord. No. 9-6-94B)

7-615 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable in an action brought in the name of the city for the recovery of such amount. (Ord. No. 9-6-94B)

7-616 Penalty.

Any person, firm, or corporation violating any provision of this chapter shall be punished as provided in Section 1-108 of this code for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 9-6-94B)

7-617 Effective date.

All provisions within Part 7, Chapter 6, Sections 7-601 through 7-616 shall not be effective and in force until 12:01 a.m., November 15, 1994. On November 15, 1994, at 12:01 a.m., all provisions of Part 7, Chapter 6, Sections 7-601 through 7-616 shall be in full force and effect. (Ord. 10-24-94 § 2)

Chapter 7

TANGIBLE PERSONAL PROPERTY EXCISE TAX

Sections:

7-701 Excise tax on storage, use or other consumption of tangible, personal property levied.

7-702 Exemptions.

7-703 Time when due--Returns--Payment.

7-704 Tax constitutes debt.

7-705 Collection of tax by retailer or vendor.

- 7-706 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state permits.
- 7-707 Revoking permits.
- 7-708 Remunerative deductions allowed vendors or retailers of other states.
- 7-709 Interest and penalties--Delinquency.
- 7-710 Waiver of interest and penalties.
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7-701 Excise tax on storage, use or other consumption of tangible, personal property levied.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on the storage, use or other consuming within the municipality of such property at the rate of three and one-half (3 ½) percent of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the municipality, but which is stored in the municipality, pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or service. (Ord. 6-15-98A § 1)

7-702 Exemptions.

The provisions of this chapter shall not apply:

- A. In respect to the use of an article of tangible, personal property brought into the municipality by a non-resident individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;
- B. In respect to the use of tangible, personal property purchased for resale before being used;
- C. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by the Oklahoma Use Tax Code and the city of Bristow use tax ordinance, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in

an amount less than the tax imposed by both the Oklahoma Use Tax Code and the city of Bristow use tax ordinance, the provisions of this chapter shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the city of Bristow use tax ordinance, and the rate by which the previous tax upon the sale or use was computed. No credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and the municipality;

D. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the sales tax code of the municipality. The term “manufacturing plants” shall mean the establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

E. In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the municipality;

F. In respect to the use of any article of tangible, personal property brought into the municipality by an individual with intent to become a resident of this municipality where such personal property is for such individual’s personal use or enjoyment;

G. In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;

H. In respect to livestock purchased outside Oklahoma and brought into this municipality for feeding or breeding purposes, and which is later resold. (Ord. 6-15-98A § 2)

7-703 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. (Ord. 6-15-98A § 3)

7-704 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. (Ord. 6-15-98A § 4)

7-705 Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and without the state of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this municipality shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefor in the manner and form described by the tax commission, if the tax commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the tax commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this city. (Ord. 6-15-98A § 5)

7-706 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state permits.

The tax commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible

personal property for use in this municipality and by the out-of-state place of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this municipality. Such retailer or vender may be issued, without charge, a permit to collect such taxes by the tax commission in such manner and subject to such regulations and agreement as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this municipality. Such authority and permit may be canceled when at any time the tax commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipality sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. 6-15-98A § 6)

7-707 Revoking permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this chapter or the Oklahoma Use Tax Code or any order, rules or regulations of the tax commission, the tax commission may, upon notice and hearing as provided for in 68 O.S. 1981, Section 1408, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any order, rules or regulations of the tax commission. (Ord. 6-15-98A § 7)

7-708 Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the tax commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for the collection of state use taxes. (Ord. 6-15-98A § 8)

7-709 Interest and penalties--Delinquency.

Section 217 of Title 68 O.S. 1981 is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this chapter. (Ord. 6-15-98A § 9)

7-710 Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipality tax herein levied may be waived or remitted in the same manner as provided for such waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. 1981, Section 227, and to accomplish the purposes of this section the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this chapter. (Ord. 6-15-98A § 10)

7-711 Erroneous payments--Claim for refund.

Refund of erroneous payment of the municipality use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. 1981, Section 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this chapter. (Ord. 6-15-98A § 11)

7-712 Fraudulent returns.

In addition to all civil penalties provided by this chapter, the wilful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00) and cost. Each day of noncompliance with this chapter shall constitute a separate offense. (Ord. 6-15-98A § 12)

7-713 Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the municipality use tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. 1981, Section 205, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipality use tax as is herein set forth in full. (Ord. 6-15-98A § 13)

7-714 Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the municipality ordinances. (Ord. 6-15-98A § 14)

7-715 Provisions severable.

The provisions of this chapter are hereby declared to be severable, and if any section, and if any section, paragraph, sentence or clause of this chapter is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof. (Ord. 6-15-98A § 15)

7-716 Definitions.

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

- A. "City" means the city of Bristow, Oklahoma.
- B. "Transaction" means sale. (Ord. 6-15-98A § 16)

7-717 Tax collector defined.

The term "tax collector" as used herein means the department of the municipality government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied. (Ord. 6-15-98A § 17)

7-718 Classification of taxpayers.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed the state law for purposes of the Oklahoma Use Tax Code. (Ord. 6-15-98A § 18)

7-719 Subsisting state permits.

All valid and subsisting permits to do business issued by the tax commission pursuant to the Oklahoma Use Tax Code are for the purpose of this chapter hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipality permit for the same purpose. (Ord. 6-15-98A § 19)

7-720 Purposes 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 municipality, and any and all revenues derived hereunder may be expanded by the governing body of the municipality for any purpose for which funds may be lawfully expended as authorized. (Ord. 6-15-98A § 20)

7-721 Citation and codification.

The ordinance codified in this chapter shall be known and may be cited as “city of Bristow use tax ordinance” and shall be codified as Part 7, Chapter 7 of the ordinances of the city. (Ord. 6-15-98A § 21)