





## PART 7

### FINANCE AND TAXATION

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**CHAPTER 1**

**FINANCES GENERALLY**

<b>Section 7-101</b>	<b>Appropriation of monies.</b>
<b>Section 7-102</b>	<b>Investments.</b>
<b>Section 7-103</b>	<b>Depositories designated, deposit of funds.</b>
<b>Section 7-104</b>	<b>Funds secured by unit collateral system.</b>

**SECTION 7-101      APPROPRIATION OF MONIES.**

All monies, however derived, belonging to the city shall only be appropriated for such objects, and defraying such expenses as accrue or necessarily arise in the exercise of powers granted by law, the charter and ordinances of the city. No appropriation shall be made without an order to that effect entered upon a proper book to be kept for that purpose by the city. (Prior Code, Sec. 7-1. 7-2, in part)

**SECTION 7-102      INVESTMENTS.**

The city treasurer or any other person authorized to invest public monies shall invest the same in those investments authorized by the city council or authorized by state law in a manner authorized by either or both such council and statutes.

**SECTION 7-103      DEPOSITORIES DESIGNATED, DEPOSIT OF FUNDS.**

All banks and financial institutions as are designated by the city council shall be designated as depositories for the funds of the city. The city treasurer shall deposit daily all public funds received by him in these banks. Funds may be transferred from one depository to another upon direction of the treasurer. (Prior Code, Sec. 7-8)

**SECTION 7-104      FUNDS SECURED BY UNIT COLLATERAL SYSTEM.**

The deposits of the city shall be secured by the unit collateral system provided by state law. The provisions of the state law on the unit collateral system, Sections 516.1 through 516.10 of Title 62 of the Oklahoma Statutes, are hereby adopted insofar as they are applicable to the city. (Prior Code, Sec. 7-8)



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PURCHASES BY CITY

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Section 7-203	Procedure - Competitive Bidding Act supersedes.
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Section 7-205	Disposition of surplus or obsolete materials, competitive bidding.
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SECTION 7-201      DEFINITION.

The term "contractual services", for the purpose of this Chapter, means services performed by 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 such services under express or implied contract. Contractual services include: travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rents, repairs, alterations, and maintenance of buildings, equipment, streets, and bridges and other physical facilities of the City; and other services performed by the City by persons not in the employment of the City.

Charter Reference: Purchases generally, Sec. 4-3, 4-4.

SECTION 7-202      BY WHOM MADE.

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

SECTION 7-203      PROCEDURE.

A. The City Manager shall contract for and purchase all supplies, materials, and equipment for the offices, departments, and agencies of the City. The City Manager may also transfer to or between offices, departments, and agencies, or sell surplus or obsolete supplies, materials, and equipment.

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B. Before a contract shall be entered into, or any such purchase made involving the expenditure of more than Ten Thousand Dollars (\$10,000.00), or any sale made of property the value of which is more than Five Thousand Dollars (\$5,000.00), such contract or sale shall:

1. Be approved by the City Council;
2. Be submitted for competitive bidding, except as provided in this Chapter.
3. Have written notice given by the City Manager for sealed bids for the furnishing of such supplies, materials, or equipment where competitive bidding is required hereunder.

C. The notice required in this section shall state the time and place for filing the bids, shall contain an ample description of the supplies, materials, and/or equipment to be purchased or sold, the time and place the bids will be opened, and that all bids may be rejected. The notice shall be mailed to all vendors who have filed a written request for mailing of bid notices, and shall be published one time at least ten (10) days before the date set for opening bids. The bids shall be in writing, sealed, and filed with the City Clerk prior to the time they are to be opened. The bids may be rejected, or the City Manager may readvertise for bids, or after due consideration thereof may award a contract to purchase such supplies, materials, and/or equipment from the lowest and best responsible bidder. However, the City Manager may, at his option, purchase any such materials, supplies, and equipment through central purchasing of the State. The procedures outlined in the Oklahoma Public Competitive Bidding Act shall supersede the provisions of this Chapter concerning the construction of public improvements as defined in the Open Public Competitive Bidding Act.

Charter Reference: Competitive Bidding, Sec. 4-3, 4-4.

State Law Reference: Public Competitive Bidding Act, 61 O.S., Secs. 101, et seq.

### SECTION 7-204      WHEN BIDDING NOT REQUIRED.

The following may be purchased without giving an opportunity for competitive bidding:

A. Supplies, materials, equipment, or contractual services where the cost does not exceed Ten Thousand Dollars (\$10,000.00) in a single transaction.

B. Supplies, materials, equipment, or contractual services which can be furnished only by a single dealer or a sole source vendor, or which have a uniform price wherever bought;

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C. 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, or purchased at auction at a price deemed below that obtainable elsewhere;

D. Contractual services (gas, electricity, telephone service, and the like) purchased from a public utility at a price or rate determined by the State Corporation Commission or other government authority.

E. Supplies, materials, equipment, or contractual services when purchased at a price not exceeding a price set therefor by the State purchasing agency, or any other State agency, authorized to regulate prices for things purchased by the State (whether such price is determined by a contract negotiated with a vendor or otherwise);

F. Contractual services of a professional nature, such as engineering, architectural, medical, and legal services; or,

G. When an emergency is declared to exist by the City Council.

Charter Reference: Authority of Council to make exceptions from competitive bidding requirements, Sec. 4-3.

### SECTION 7-205      DISPOSITION OF SURPLUS OR OBSOLETE MATERIALS, BIDDING.

No surplus or obsolete supplies, materials, or equipment of a value of more than Five Thousand Dollars (\$5,000.00) may be sold until the procedures outlined in this Chapter have been followed.

### SECTION 7-206      WHEN COMPETITIVE BIDDING NOT REQUIRED.

The City Manager may sell the following without giving an opportunity for competitive bidding:

A. Surplus or obsolete supplies, materials, or equipment whose total value does not exceed Five Thousand Dollars (\$5,000.00) in a single transaction; or,

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

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**C. Where the Council has authorized the sale of surplus property at public auction under such terms, conditions, and notice as the Council may prescribe or as the City Manager deems appropriate.**

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CHAPTER 3

SALES TAX

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Section 7-309	Exemptions; general.
Section 7-310	Exemptions; agriculture.
Section 7-311	Exemptions; manufacturers.
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Section 7-319	Waiver of interest and penalties.
Section 7-320	Erroneous payments; claim for refund.
Section 7-321	Failure to file; fraudulent returns; penalties.
Section 7-322	Tax records confidential.
Section 7-323	Provisions cumulative.
Section 7-324	Amendments to chapter.

SECTION 7-301      CITATION OF CHAPTER.

This chapter shall be known and may be cited as the City Sales Tax Ordinance. (Prior Code, Sec. 7-21)

State Law Reference: State sales tax provisions, 68 O.S. Secs. 1350, et seq.; City powers, procedures to levy, 68 O.S. Secs. 2701 et seq.

Ed. Note: Ordinance No. 97, effective January 1, 1975, levied a one cent sales tax. Ordinance No. 124, effective November 1, 1978, levied a second cent sales tax. Ord. No. 297, 1/27/92, levied two (2) additional cents taxes earmarked as provided herein.

SECTION 7-302      DEFINITIONS.

A. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, 68 O.S. Section 1352, and Sections 596 and 793 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.

B. The term "tax collector," as used herein, shall mean the department of the city 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. (Prior Code, Sec. 7-22, in part)

**SECTION 7-303      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, Sec. 7-24)

**SECTION 7-304      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, Sec. 7-25)

**SECTION 7-305      PURPOSE OF REVENUES; DISPOSITION OF PROCEEDS.**

A. It is hereby declared to be the purpose of the revenues generated by the first and second cent sales taxes levied herein to provide revenues for the support of the functions of the municipal government of the City.

B. The additional two percent (2%) tax levied by Ordinance Number 297 shall be allocated and spent as follows: one-half for general government purposes and one-half for capital improvements. (Prior Code, Sec. 7-27; Ord. No. 297, 1/27/92).

C. The additional one percent (1%) levied by Ordinance No. 548 shall be allocated and spent only for salaries, benefits, expenses, and equipment for fire department services.

**SECTION 7-306      TAX RATE; SALES SUBJECT TO TAX.**

There is hereby levied within the City of Piedmont an excise tax of five percent (5%) upon the gross proceeds derived from all sales taxable under the Oklahoma Sales Tax Code. The lists and definitions of taxable sales under the Oklahoma Sales Tax Code are hereby adopted by reference as if set forth fully herein.

**SECTION 7-307      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;

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2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied by state law has been paid;

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

4. Sale of aircraft on which the tax levied pursuant to Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid.

(Prior Code, Sec. 7-29)

### SECTION 7-308 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

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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 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 educational 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 or 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 educational 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, Sec. 7-30)

**SECTION 7-309**      **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

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Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the State of Oklahoma in the federal food stamp program; and

10. Nothing herein shall be construed as limiting or prohibiting the city from levying and collecting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or commercial purposes. Any sales tax levied by the city on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items.

(Prior Code, Sec. 7-31)

### SECTION 7-310      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. Livestock, including cattle, horses, mules, or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;

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

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;
- b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products;

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

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use in noncommercial flower and vegetable gardens;

- e. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this act, agricultural chemical pesticides shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacterial or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and
- f. This exemption shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the contract price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor, and, upon violation and conviction for a second offense the Oklahoma Tax Commission shall revoke the vendor's sales tax permit; and

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

(Prior Code, Sec. 7-32)

### SECTION 7-311      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;

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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; or

6. Machinery, equipment, fuels and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of controlled industrial waste at treatment facilities specifically permitted pursuant to the Controlled Industrial Waste Disposal Act and operated at the place of waste generation, or facilities approved by the State Department of Health for the cleanup of a site of contamination. The term controlled industrial waste may include low-level radioactive waste for the purpose of this subsection.

(Prior Code, Sec. 7-33)

### SECTION 7-312 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;

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- 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, Sec. 7-34)

### SECTION 7-313 TAX DUE AND PAYABLE

The tax levied under this chapter shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the sales tax law of the state. (Prior Code, Sec. 7-35)

### SECTION 7-314 PAYMENT OF TAX; BRACKETS

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

B. The bracket system for the collection of the city sales tax by the tax collector shall be as the same is hereafter adopted by the agreement of the city and the tax collector, in the collection of both the city sales tax and the state sales tax. (Prior Code, Sec. 7-36)

### SECTION 7-315 TAX CONSTITUTES PRIOR CLAIM

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. (Prior Code, Sec. 7-37)

### SECTION 7-316 VENDOR'S DUTY TO COLLECT TAX

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

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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 the vendor until paid, and shall be recoverable at law in the same manner as other debts.

C. No vendor shall willfully or intentionally fail, neglect or refuse to collect the full amount of the tax levied; or willfully or intentionally fail, neglect or refuse to comply with the provisions of this chapter; or remit or rebate to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied; or make 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. (Prior Code, Sec. 7-38)

State Law Reference: Vendor's duty to collect tax, 68 O.S. Sec. 1310.

### SECTION 7-317 RETURNS AND REMITTANCES; DISCOUNTS.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the state sales tax code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the code for collection of state sales taxes. (Prior Code, Sec. 7-39)

### SECTION 7-318 INTEREST AND PENALTIES; DELINQUENCY; DISCOUNT FORFEITURE.

A. Section 217 of Title 68 of the Oklahoma Statutes is adopted and made a part of this chapter.

B. Interest and penalties at the rates and in amounts specified in the state statute cited in Subsection A herein are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter.

C. 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.

D. If such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this chapter. (Prior Code, Sec. 7-40)

### SECTION 7-319 WAIVER OF INTEREST AND PENALTIES.

A. 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 remittance as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes.

B. To accomplish the purposes of this section, the applicable provisions of Section 220 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter. (Prior Code, Sec. 7-41)

**SECTION 7-320      ERRONEOUS PAYMENTS; CLAIM FOR REFUND.**

A. Refund or erroneous payment of the city sales 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 sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes.

B. To accomplish the purposes of this section, the applicable provisions of Section 227 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter. (Prior Code, Sec. 7-42)

**SECTION 7-321      FAILURE TO FILE; FRAUDULENT RETURNS; PENALTIES.**

A. No person shall:

1. Intentionally fail or refuse to make tax reports and remittances as required under this chapter; or

2. Intentionally make false and fraudulent tax reports for the purpose of avoiding or escaping payment of any tax or portion thereof due under this chapter.

B. Any person required to collect and remit sales tax pursuant to the state sales tax code or the city code, and engaging in any of the callings, trades, avocations, professions, businesses or occupations for which a license is required by the city, and applying for such license, must submit proof as a condition precedent to issuing such license of a valid sales tax permit number issued by the State of Oklahoma.

C. Any license issued by the city to any person engaging in any of the callings, trades, avocations, businesses, professions or occupations for which a license is required by the city code may be suspended or revoked for failure to maintain a lawful sales tax license or collect and remit sales tax if and as required by the state sales tax code or the city code.

D. In addition to all civil penalties provided by this chapter, any violation of this section shall subject the offending taxpayer to the penalty set forth in Section 1-108 of this code. Each day of such violation shall be considered a separate offense and charged separately. (Prior Code, Sec. 7-43, in part)

**SECTION 7-322      TAX 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 Section 205 of Title 68 of the Oklahoma Statutes of the state sales tax code, and all subsections 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 Sec. 7-44)

**SECTION 7-323      PROVISIONS CUMULATIVE.**

The provisions of this chapter shall be cumulative and in addition to any and all other taxing provisions of city ordinances. (Prior Code, Sec. 7-46)

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**SECTION 7-324      AMENDMENTS TO CHAPTER.**

The council, by ordinance duly enacted, is authorized to make such administrative and technical changes or additions in the method and manner of administration and enforcing this chapter as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as provided by law. (Prior Code, Sec. 7-45)

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Section 7-401	Citation and codification.
Section 7-402	Definitions.
Section 7-403	Excise tax on storage, use or other consumption of intangible, personal property levied.
Section 7-404	Purpose of revenues.
Section 7-405	Exemptions.
Section 7-406	Time when due, returns, payment.
Section 7-407	Tax constitutes debt.
Section 7-408	Collection of tax by retailer or vendor.
Section 7-409	Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state, permits.
Section 7-410	Revoking permits.
Section 7-411	Remunerative deductions allowed vendors or retailers of other states.
Section 7-412	Interest and penalties, delinquency.
Section 7-413	Waiver of interest and penalties.
Section 7-414	Erroneous payments, claim for refund.
Section 7-415	Fraudulent returns.
Section 7-416	Records confidential.
Section 7-417	Classification of taxpayers.
Section 7-418	Subsisting state permits.
Section 7-419	Provisions cumulative.

**SECTION 7-401. CITATION AND CODIFICATION.**

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

*Ed. Note:* Ord No 248, 9/2/86 levied the first two cent use tax. Ord No. 307 6/22/92, levied a second cent use tax.

**SECTION 7-402. DEFINITIONS.**

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

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

2. "Transaction means sale.

**SECTION 7-403. 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 consumption within the municipality of such property at the rate of five percent (5%) 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 services. The additional one percent use tax adopted herein shall be dedicated only for fire department expenditures to include salaries, benefits, expenses and equipment for fire services.

**SECTION 7-404. PURPOSE OF REVENUES.**

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

**SECTION 7-405. EXEMPTIONS.**

The provisions of this chapter shall not apply:

1. In respect to the use of an article of tangible, personal property brought into the City by a nonresident individual visiting in this City for his or her personal use or enjoyment while within the City;
2. In respect to the use of tangible, personal property purchased for resale before being used;
3. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City Use Tax has been paid by the person using such tangible, personal property in the City, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and City Use Tax, the provision of this chapter shall also apply to it by a rate measured by the difference only between the rate provided by both the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and the City;

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

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

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

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

8. In respect to livestock purchased outside Oklahoma and brought into this city for feeding or breeding purposes, and which is later resold.

(Ord. No. 248, 9/2/86)

### SECTION 7-406

### 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. No. 248, 9/2/86)

### SECTION 7-407

### 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. No. 248, 9/2/86)

### SECTION 7-408

### COLLECTION OF TAX BY RETAILER OR VENDOR.

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this city shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this city and location of any and all distribution or sales houses or offices or other places of business in the city. (Ord. No. 248, 9/2/86)

### SECTION 7-409

### 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

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tax herein levied by any retailer or vendor not maintain a place of business within this state but who makes sales of tangible, personal property for use in this city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this city. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this city. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable city sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. No. 248, 9/2/86)

### SECTION 7-410

### REVOKING PERMITS.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission. (Ord. No. 248, 9/2/86)

### SECTION 7-411

### 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 the code for the collection of state use taxes. (Ord. No. 248, 9/2/86)

### SECTION 7-412

### INTEREST AND PENALTIES, DELINQUENCY.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in the amounts as herein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this chapter. (Ord. No. 248, 9/2/86)

SECTION 7-413

WAIVER OF INTEREST AND PENALTIES.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purposes of this section the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter. (Ord. No. 248, 9/2/86)

SECTION 7-414

ERRONEOUS PAYMENTS, CLAIM FOR REFUND.

Refund of erroneous payment of the city use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter. (Ord. No. 248, 9/2/86)

SECTION 7-415

FRAUDULENT RETURNS.

In addition to all civil penalties provided by this chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be punished as provided in Section 1-108 of this code. Each day of noncompliance with this chapter shall constitute a separate offense. (Ord. No. 248, 9/2/86)

SECTION 7-416

RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the city use tax as is herein set forth in full. (Ord. No. 248, 9/2/86)

SECTION 7-417

CLASSIFICATION OF TAXPAYERS.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code. (Ord. No. 248, 9/2/86)

SECTION 7-418

SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this chapter hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Ord. No. 248, 9/2/86)

SECTION 7-419

PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances. (Ord. No. 248, 9/2/86)

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CHAPTER 5

911 EMERGENCY SERVICE FEE

Section 7-501 Service fee levied, rate, amendment.

Section 7-502 Administration.

SECTION 7-501 SERVICE FEE LEVIED, RATE, AMENDMENT.

The rate for 911 emergency telephone service is hereby established at a rate of three percent (3%) of the recurring charges as designated by the tariff for exchange for telephone service or its equivalent within the city in accordance with Section 2811 of Title 63 of the Oklahoma Statutes, beginning January 1, 1993. The city council may amend the rate for subsequent years by resolution adopted by the city council. (Ord. No. 274, 12/27/88; Ord. No. 309, 8/24/92)

Ed. Note: Ord. No. 274 set the rate at 5%. Ord. No. 309 set the rate at 3%.

SECTION 7-502 ADMINISTRATION.

The city council is authorized to designate by resolution an appropriate agency or agencies to administer and collect the fee for 911 emergency telephone service. (Ord. No. 274, 12/27/88)

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## 1. INTRODUCTION

The following information is provided for your information.

The information is provided for your information.

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CHAPTER 6

TELEPHONE EXCHANGE FEE

Section 7-601            Inspection fee and service charge.  
Section 7-602            Charge in lieu of other license tax.

SECTION 7-601            INSPECTION FEE AND SERVICE CHARGE.

A.     There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulation and police control of the construction of lines and equipment of the telephone company in the city.

B.     The amount of the inspection fee and service charge shall be 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.

C.     The inspection fee and charge shall be due and payable to the city on or before the first day of April of each year and shall be paid into and appropriated and expended from the general revenue fund of the city. (Prior Code, Sec. 7-3)

State Law Reference: City powers to levy tax on utilities, 68 O.S. Secs. 2601 et seq.

SECTION 7-602            CHARGE IN LIEU OF OTHER LICENSE TAX.

During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied by this chapter 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. This section is not intended to extinguish or abrogate any existing arrangement whereby the city is permitted to use the underground conduit, duct space or pole contracts of the company for the fire alarm and police call systems of the city, or either of them. (Prior Code, Sec. 7-4)

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CHAPTER 7

UTILITY FEE

Section 7-701	Utility fee levied.
Section 7-702	Fee to be in-lieu of franchise.
Section 7-703	Payable quarterly.
Section 7-704	Tax constitutes lien.
Section 7-705	Ouster for failure to pay.
Section 7-706	Revocable permit for gas utility complying with chapter.

SECTION 7-701      UTILITY FEE LEVIED.

From and after August 27, 1990, there is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of electricity or gas in the city, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the city, all as provided by Sections 2601 et seq. of Title 68 of the Oklahoma Statutes. (Ord. No. 284, 8/27/90; Ord. No. 312, 12/28/92; Ord. No. 314, 1/25/93)

SECTION 7-702      FEE TO BE IN-LIEU OF FRANCHISE.

The tax levied under this chapter shall, when levied, apply to all persons, firms, associations or corporations engaged in the business of furnishing electricity or gas within the corporate limits of the city, except it shall not apply to any person, firm, association or corporation operating under a valid franchise from the city. (Ord. No. 284, 8/27/90; Ord. No. 312, 12/28/92; Ord. No. 314, 1/25/93)

SECTION 7-703      PAYABLE QUARTERLY.

A. The tax levied under this chapter applicable to sales of electricity shall remain in effect until repealed and shall be payable quarterly on the 15th day of January, April, July and October.

B. The tax levied under this chapter applicable to sales of gas shall be levied for a term of not less than one year and shall be payable quarterly.

C. The tax shall be placed in the general revenue fund of the city. Amounts not paid when due shall bear interest at the rate of ten percent (10%) per annum until paid. (Ord. No. 284, 8/27/90; Ord. No. 312, 12/28/92; Ord. No. 314, 1/25/93)

SECTION 7-704      TAX CONSTITUTES LIEN.

The tax so imposed in this chapter shall constitute a first a prior lien on all the assets located within the city of any person, firm or corporation engaged in the business of selling electricity or gas within the city limits of the city. (Ord. No. 284, 8/27/90; Ord. No. 312, 12/28/92; Ord. No. 314, 1/25/93)

SECTION 7-705      OUSTER FOR FAILURE TO PAY.

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 the city. In addition, thereto, an action may be

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maintained against such person, firm or corporation for the amount of the tax, and all expenses of collecting same, including reasonable attorney's fees. (Ord. No. 284, 8/27/90)

### SECTION 7-706      REVOCABLE PERMIT GRANTED FOR GAS UTILITY COMPLYING WITH CHAPTER

Any person, firm, association or corporation engaged in the business of furnishing gas within the city limits, not operating under a valid franchise from the city, and upon whom the tax provided in this chapter is imposed, is hereby granted a revocable permit by the city for so long as this chapter remains in effect as to taxes on sales of gas and the taxes are paid in accordance with the terms of this chapter to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate and maintain a system of works, pipes, pipelines, apparatus, structures and appurtenances in, across, upon and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parkings, driveways, and rights of way, utility easements, and other ways, places, areas, and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places, and grounds", in the city, as now constituted, and as may be added to hereafter, for the purpose of transporting, distributing and selling gas to the city, its inhabitants, and the public generally for domestic, commercial and industrial uses, and for any and all other purposes for which gas, during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues and other public ways, places and grounds of the city for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing and repairing the works, pipes, pipelines and all necessary apparatus, machinery, structures and appurtenances. (Ord. No. 312, 12/28/92; Ord. No. 314, 1/25/93)

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CHAPTER 8

UNCLAIMED AND SURPLUS PROPERTY

Section 7-801	Delivery to city administrator required; records.
Section 7-802	Disposition of personal property, general procedures.
Section 7-803	Seized property related to gambling, report and disposition.
Section 7-804	Seized property related to alcoholic beverages, disposition.
Section 7-805	Property of deceased persons.
Section 7-806	Exchange of unclaimed or confiscated weapons.
Section 7-807	Recovery by owner.

SECTION 7-801 DELIVERY TO CITY ADMINISTRATOR REQUIRED; RECORDS.

A. All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the city administrator. The city administrator shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof and the name of the person from whom it was taken and the place where it was found. The record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

B. For the purpose of this chapter, "city administrator" means the city administrator or his designee. (Prior Code, Sec. 17-1 to 17-4, as amended)

State Law Reference: Disposition of personal property by police chief, procedures, application to destroy, 11 O.S. Sec. 34-104; Uniform unclaimed property disposition act, 60 O.S. Sec. 655; relating to finders of lost goods, 15 O.S. Secs. 511 et seq.; disposal of stolen or embezzled property coming into hands of police officers, 22 O.S. Secs. 1321 et seq.; disposal of liquor and gambling equipment seized by police officers, 22 O.S. Secs. 1261 et seq.; alcoholic beverages seized in violation of law, 37 O.S. Sec. 539.

SECTION 7-802 DISPOSITION OF PERSONAL PROPERTY, GENERAL PROCEDURES.

A. The city administrator is authorized to sell personal property, other than animals, money or legal tender of the United States, except as provided in Subsection B of this section, which has come into his possession in any manner if:

1. The owner of the personal property is unknown or has not claimed the property;
2. The property has been in the custody of the city administrator for at least thirty (30) days; or
3. The property or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

Any owner, to recover or claim property, must be able to satisfactorily prove ownership to the city administrator. For the purpose of this chapter, "city administrator" means the city administrator

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or his designee.

B. Any property found by a person other than public official which shall be delivered to any police officer for "identification", if not claimed or identified within thirty (30) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof.

C. The city administrator shall file an application in the district court of the county requesting the authority of the court to conduct a sale of such personal property or money or legal tender which has a fair market value of more than its face value. The city administrator shall attach to his application a list describing such property or money or legal tender including any identifying numbers and marks, the date the property or money or legal tender came into his possession, and the name of the owner and his address, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application.

D. At least ten (10) days prior to the date of the hearing, notice of the hearing shall be sent by certified mail to each owner at his address as listed in the application. The notice shall contain a brief description of the property or money or legal tender of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of city notices, and at two (2) other public places in the city.

E. If no owner appears and established ownership to the property or money or legal tender at the hearing, the court shall enter an order authorizing the city administrator to sell the personal property or money or legal tender for cash to the highest bidder. After the court issues the order, the city administrator will transfer the property, listed on the order, to the clerk, who will sell the property at an auction sale, after at least five (5) days notice of the sale has been published. The city administrator shall thereafter make a return of the sale, and the order of the court confirming the sale shall vest title to the property or money or legal tender in the purchaser. The money received from the sale of the personal property or money or legal tender shall be deposited in the city's general fund.

F. All money or legal tender of the United States, except as provided in Subsection B of this section, which has come into the possession of the city administrator pursuant to the circumstances provided for in Subsection A of this section, shall be transferred by the city administrator to the city clerk for deposit in the general fund. Prior to any such transfer, the city administrator shall file an application in the district court requesting the court to enter an order authorizing him to transfer the money for deposit in the general fund. The application shall describe the money or legal tender, any serial numbers, the date the same came into his possession, and the name of the owner and his address, if known. Upon filing the application which may be joined with an application as described in Subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in Subsection C of this section. The notice shall state that upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the general fund. The notice may be combined with a notice to sell personal property as provided for in Subsection B of this section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the general fund as provided in this subsection.

G. The provisions of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the

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possession of is prohibited by law, nor to any property for which a specific procedure is otherwise established by law, ordinance or proper order. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order. (Prior Code, Sec. 17-1 to 17-4, in part)

State Law Reference: Similar provisions 11 O.S. Sec. 34-104.

### SECTION 7-803 SEIZED PROPERTY RELATED TO GAMBLING, REPORT AND DISPOSITION.

A. If any personal property used for the purpose of violating any of the gambling laws of this state, shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required within five (5) days of the seizure to make a written report under oath and file the same with the county clerk, which report shall in detail state the name of the officer or person making the seizure, the place where seized and an inventory of the property or articles so taken into possession. Within five (5) days after seizing such property, the officer shall deliver the property to the sheriff of the county and take the sheriff's receipt therefor, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyed pursuant to the orders of the court.

B. In computing the time, five (5) days, Sundays and holidays shall be excluded and not counted.

C. A duplicate copy of the receipt shall be filed with the county clerk, who shall keep a record of same. However, the sheriff and his deputies shall be required to make the affidavit and issue the receipt and otherwise comply with the provisions of this section. The sheriff shall be liable on his bond for the safe keeping of all such property so turned over to him under the provisions of this section.

State Law Reference: Similar provisions, 22 O.S. Sec. 1261.

### SECTION 7-804 SEIZED PROPERTY RELATED TO ALCOHOLIC BEVERAGES, DISPOSITION.

If city police officers seize:

1. Any apparatus, equipment, vehicle or instrumentality used for, or intended for use in manufacturing or transporting any alcoholic beverages in violation of the state alcoholic beverage control laws; or

2. Any alcoholic beverages possessed, sold, transported, manufactured, kept or stored in violation of the state alcoholic beverage control laws, and if the court finds from a preponderance of the evidence that the property seized was lawfully subject to seizure, then the court shall render judgment accordingly and order the property forfeited to the city in which the seizure of the property took place. Such seized property shall be sold by the city administrator, after giving ten (10) days' notice by one publication in a legal newspaper of the county at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this section, the proceeds thereof shall be distributed as follows:

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- a. First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and
- b. Second, the remainder shall be deposited with the city.

(Prior Code, Sec. 17-1 to 17-4, in part)

State Law Reference: Similar provisions, 37 O.S. Sec. 539.

### SECTION 7-805      PROPERTY OF DECEASED PERSONS.

The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit to the effect that he is the person entitled to possession of the property; the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this chapter. (Prior Code, Sec. 17-1 to 17-4, in part)

### SECTION 7-806      EXCHANGE OF UNCLAIMED OR CONFISCATED WEAPONS.

A. Unclaimed or confiscated weapons which have been in the possession of the police department for one hundred twenty (120) days or more may be traded by the city administrator, with the approval of the city administrator or his designee, for new weapons for use by the police department. The unclaimed or confiscated weapons may only be traded to such gun dealers who have complied with applicable state and federal regulations concerning firearms and, in the opinion of the city administrator and the city administrator or his designee, are reputable.

B. In trading such unclaimed or confiscated weapons, the city administrator or his designee shall advertise for bids for such trade. Such advertisement for bids shall be done in accordance with prevailing and established bid procedure as formulated by the purchasing entity of the city.

C. The value of such unclaimed and confiscated weapons as hereinabove discussed shall in all cases be determined by their fair market value of the new weapons received in such trade.

### SECTION 7-807      RECOVERY BY OWNER.

If any property is sold as herein provided, and the owner thereof takes and recovers possession of same from the purchaser, the amount paid therefor shall be returned to the purchaser, upon verified claim being submitted and approved by the city administrator. (Prior Code, Sec. 17-1 to 17-4, in part)

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CHAPTER 9

ARTICLE 1

IDENTITY THEFT PROTECTION PROGRAM

Section 7-901	Identity Theft Protection Program
Section 7-902	Purpose
Section 7-903	Definitions
Section 7-904	Findings
Section 7-905	Process of establishing a covered account
Section 7-906	Access to covered account information
Section 7-907	Credit card payments
Section 7-908	Sources and types of red flags
Section 7-909	Prevention and mitigation of identity theft
Section 7-910	Updating the program
Section 7-911	Program administration

ARTICLE 2

TREATMENT OF ADDRESS DISCREPANCIES

Section 7-913	Short title.
Section 7-914	Purpose.
Section 7-915	Definitions.
Section 7-916	Policy.
Section 7-917	Furnishing consumer's address to Consumer Protection Agency.
Section 7-918	Methods of confirming consumer addresses.

WHEREAS pursuant to federal law the Federal Trade Commission adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS the Federal Trade Commission regulations, adopted as 16 CFR § 681.2 require creditors, as defined by 15 U.S.C. § 1681a(r)(5) to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS 15 U.S.C. § 1681a(r)(5) cites 15 C.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS the Federal Trade Commission regulations include utility companies in the definition of creditor;

WHEREAS the City of Piedmont is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS the Federal Trade Commission regulations define 'covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS the Federal Trade Commission regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS the City provides utility, court and other services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS customer accounts for court proceedings, and public safety services for which payment is made after the product is consumed or the service has otherwise been provided are covered accounts by virtue of being for household purposes and allowing for multiple payments or transactions;

WHEREAS the Federal Trade Commission regulations, adopted as 16 CFR 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

WHEREAS the City of Piedmont may use consumer credit reports to establish various customer accounts; and

WHEREAS the duly elected governing authority of the City of Piedmont is the Mayor and council thereof;

SECTION 7-901      SHORT TITLE.

This Article shall be known as the Identity Theft Prevention Program.

SECTION 7-902      PURPOSE.

The purpose of this Article is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

**SECTION 7-903      DEFINITIONS.**

For purposes of this Article, the following definitions apply<sup>1</sup>:

- (a) 'City' means the City of Piedmont.
- (b) 'Covered account' means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.
- (c) 'Credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
- (d) 'Creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.
- (e) 'Customer' means a person that has a covered account with a creditor.
- (f) 'Identity theft' means a fraud committed or attempted using identifying information of another person without authority.
- (g) 'Person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (h) 'Personal Identifying Information' means a person's credit card account information, debit card information bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.
- (i) 'Red flag' means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
- (j) 'Service provider' means a person that provides a service directly to the City.

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<sup>1</sup> Other than "city" and "personal identifying information", definitions provided in this section are based on the definitions provided in 16 CFR § 681.2.

**SECTION 7-904      FINDINGS.**

1. The City is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.

2. Covered accounts offered to customers for the provision of city services include: Water, sewer, sanitation services, building inspection and zoning application, court proceedings, and various public safety purposes.

3. The City's previous experience with identity theft related to covered accounts is not recorded.

4. The processes of opening a new covered account, restoring an existing covered account, and making payments on such accounts. have been identified as potential processes in which identity theft could occur.

5. The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the city's computer system and is not otherwise recorded.

6. The City determines that there is a low risk of identity theft occurring in the following ways (*if any*):

- a. Use by an applicant of another person's personal identifying information to establish a new covered account;
- b. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- c. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts;
- d. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment;

**SECTION 7-905      PROCESS OF ESTABLISHING A COVERED ACCOUNT.**

1. As a precondition to opening a covered account in the city, each applicant shall provide the City with personal identifying information of the customer (for example, a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such information shall be entered directly into the city's computer system and shall not otherwise be recorded.

2. Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The city may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

**SECTION 7-906      ACCESS TO COVERED ACCOUNT INFORMATION.**

1. Access to customer accounts shall be password protected and shall be limited to authorized City personnel.
2. Such password(s) shall be changed on a regular basis, shall be at least 8 characters in length and shall contain letters, numbers and symbols.
3. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Manager and the password changed immediately.
4. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the City Manager and the City Attorney.

**SECTION 7-907      CREDIT CARD PAYMENTS.**

1. In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
2. All credit card payments made over the telephone or the city's website shall be entered directly into the customer's account information in the computer data base.
3. Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

**SECTION 7-908      SOURCES AND TYPES OF RED FLAGS.**

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

1. Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:
  - a. A fraud or active duty alert that is included with a consumer report;
  - b. A notice of credit freeze in response to a request for a consumer report;
  - c. A notice of address discrepancy provided by a consumer reporting agency;
  - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
    - i. A recent and significant increase in the volume of inquiries;

- ii. An unusual number of recently established credit relationships;
- iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
- iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

**2. Suspicious documents. Examples of suspicious documents include:**

- a. Documents provided for identification that appear to be altered or forged;
- b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
- c. Identification on which the information is inconsistent with information provided by the applicant or customer;
- d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
- e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.

**3. Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:**

- a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
  - i. The address does not match any address in the consumer report; or
  - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
- b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
- c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
- d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
- e. The SSN provided is the same as that submitted by other applicants or customers.
- f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
- g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

- h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
  - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
4. Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
- a. Shortly following the notice of a change of address for an account, City receives a request for the addition of authorized users on the account.
  - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
    - (i) The customer fails to make the first payment or makes an initial payment but no subsequent payments.
  - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
    - (i) Nonpayment when there is no history of late or missed payments;
    - (ii) A material change in purchasing or spending patterns;
  - d. An account that has been inactive for a long period of time is used (*taking into consideration the type of account, the expected pattern of usage and other relevant factors*).
  - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
  - f. The City is notified that the customer is not receiving paper account statements.
  - g. The City is notified of unauthorized charges or transactions in connection with a customer's account.
  - h. The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
5. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts

**SECTION 7-909      PREVENTION AND MITIGATION OF IDENTITY THEFT.**

1. In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to their supervisor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to their supervisor, who may in his or her discretion determine that no further action is necessary. If the supervisor in his or her discretion determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate by the supervisor:

- a. Contact the customer;
- b. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
  - (i) change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
  - (ii) close the account;
- c. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
- d. Notify a debt collector within 36 hours of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
- e. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
- f. Take other appropriate action to prevent or mitigate identity theft.

2. In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to their supervisor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to their supervisor, who may in his or her discretion determine that no further action is necessary. If the supervisor in his or her discretion determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate by the supervisor:

- a. Request additional identifying information from the applicant;
- b. Deny the application for the new account;
- c. Notify law enforcement of possible identity theft; or
- d. Take other appropriate action to prevent or mitigate identity theft.

**SECTION 7-910      UPDATING THE PROGRAM.**

The City Council shall annually review and, as deemed necessary by the council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the City and its

covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- a. The City's experiences with identity theft;
- b. Updates in methods of identity theft;
- c. Updates in customary methods used to detect, prevent, and mitigate identity theft;
- d. Updates in the types of accounts that the city offers or maintains; and
- e. Updates in service provider arrangements.

#### SECTION 7-911      PROGRAM ADMINISTRATION.

The Department supervisor is responsible for oversight of the program and for program implementation. The City Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the City Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration by the Council.

1. The department supervisor will report to the City Manager at least annually, in compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:

- a. The effectiveness of the policies and procedures of city in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
- b. Service provider arrangements;
- c. Significant incidents involving identity theft and management's response; and
- d. Recommendations for material changes to the Program.

2. The department supervisor is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The department supervisor shall exercise his or her discretion in determining the amount and substance of training necessary.

#### SECTION 7-912      OUTSIDE SERVICE PROVIDERS.

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts the department supervisor shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft."

## ARTICLE 2

### TREATMENT OF ADDRESS DISCREPANCIES

#### SECTION 7-913     SHORT TITLE.

This Article II shall be known as Treatment of Address Discrepancies.

#### SECTION 7-914     PURPOSE.

Pursuant to 16 CFR § 681.1, the purpose of this Article is to establish a process by which the City will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the City has received a notice of address discrepancy.

#### SECTION 7-915     DEFINITIONS.

For purposes of this article, the following definitions apply:

- (1) 'Notice of address discrepancy' means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.<sup>2</sup>
- (2) 'City' means City of Piedmont Oklahoma.

#### SECTION 7-916     POLICY.

In the event that the City receives a notice of address discrepancy, the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

1. Compare the information in the consumer report with:
  - a. Information the city obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(l);
  - b. Information the city maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
  - c. Information the city obtains from third-party sources that are deemed reliable by the relevant city employee; or
2. Verify the information in the consumer report with the consumer.

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<sup>2</sup> See 16 CFR § 681.1(b).

**SECTION 7-917      FURNISHING CONSUMER'S ADDRESS TO CONSUMER REPORTING AGENCY.**

1. In the event that the City reasonably confirms that an address provided by a consumer to the City is accurate, the City is required to provide such address to the consumer reporting agency from which the City received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:

- a. The City is able to form a reasonable belief that the consumer report relates to the consumer about whom the city requested the report;
- b. The City establishes a continuing relation with the consumer; and
- c. The City regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.

2. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the City to such agency for the reporting period in which the City establishes a relationship with the customer.

**SECTION 7-918      METHODS OF CONFIRMING CONSUMER ADDRESSES.**

The City employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the city's records to verify the consumer's address;
- (3) Verifying the address through third party sources; or
- (4) Using other reasonable processes.

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