

PART 7

FINANCE AND TAXATION

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SECTION 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

Funds of the city shall be deposited as required by law. The city treasurer shall deposit daily all public funds received by her into designated banks and savings and loan associations. (Prior Code, Sec. E7, as amended).

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

SECTION 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the Unit Collateral System provided by the Oklahoma Statutes. (Prior Code, Sec. E8)

SECTION 7-103 CONTRACTUAL SERVICES DEFINED FOR PURCHASING.

"Contractual services," for the purpose of this chapter, shall mean services performed for the city by persons not in the employment of the city, and may include the use of equipment or the furnishing of commodities in connection with the services express; parcel post; postage; telephone; telegraph; utilities; rents; printing out; binding; repairs, alterations and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the city; and other services performed for the city by persons not in the employment of the city. (Prior Code, Sec. E9)

SECTION 7-104 PURCHASES, HOW MADE.

All purchases of supplies, materials, equipment and contractual services for the offices, departments, and agencies of the city government, shall be made by the city manager, or by other personnel pursuant to authorizations granted by the city manager, and subject to his supervision and control. (Prior Code, Sec. E10)

SECTION 7-105 COMPETITIVE BIDDING.

Before the city makes any purchase of, or contract for, supplies, materials, equipment or contractual services, except as otherwise provided below, the city manager shall submit to at least three (3) persons, firms or corporations dealing in and

able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation, or invitation to bid, and specifications, to give them opportunity to bid; or publish notice of the proposed purchase in a newspaper of general circulation within the city. The city manager shall favor a person, firm or corporation in the city when this can be done without additional cost to the city; but the city manager shall submit requests for quotation to those outside the city when this may be necessary to secure bids or to create competitive conditions, or when the city manager thinks that by so doing the city manager can make a saving for the city; and shall purchase from them when the city manager can make a saving for the city. All bids shall be sealed and shall be opened in public at a designated time and place. The city manager may repeatedly reject all bids, and again may submit to the same or other persons, firms or corporations the request for quotation, or invitation to bid, or again publish notice of the proposed purchase. The city manager may purchase from the bidder whose bid is most advantageous to the city, considering price, quality, date of delivery and so on, and in case of a tie, may purchase from one of those tying, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the city. (Prior Code, Sec. E11)

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

SECTION 7-106 **WHEN COMPETITIVE BIDDING IS NOT REQUIRED.**

A. Unless otherwise provided herein, the following may be purchased without giving an opportunity for competitive bidding:

1. Supplies, materials, equipment or contractual services whose cost does not exceed Two Thousand Five Hundred Dollars (\$2,500.00) in a single transaction;

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

3. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including government surplus;

4. Contractual services, including but not limited to natural gas, electricity, telephone service, purchased from a public utility at a price or rate determined by the State Corporation Commission or other governmental authority;

5. 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 hereafter authorized to regulate prices for things purchased by the state, whether such price is determined by a contract negotiated with a vendor or otherwise; and

6. Contractual services of a professional nature, such as engineering, legal, architectural and medical services unless competitive bidding is required by applicable law or regulations.

B. Every contract for public improvements of more than One Thousand Dollars (\$1,000.00) shall be awarded to the lowest and best responsible bidder after notice and opportunity for competitive bidding as the council may prescribe. (Prior Code, Sec. E12, as amended)

Charter Reference: Contracts for public improvements of more than One Thousand Dollars (\$1,000.00) to be made after bidding, Section 29 of the charter.

SECTION 7-107

SALES, COUNCIL TO DECLARE SURPLUS OR OBSOLETE COMPETITIVE BIDDING.

No surplus or obsolete supplies, materials or equipment of any value may be sold until the city council shall have declared them obsolete or surplus. Before the city manager sells any surplus or obsolete supplies, materials or equipment of a value of more than Two Thousand Five Hundred Dollars (\$2,500.00), except as otherwise provided below, the city manager shall advertise them for sale in a newspaper of general circulation in the city or give notice in such other manner as the city manager deems necessary adequately to reach prospective buyers to give them opportunity to make necessary bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The city may repeatedly reject all bids and advertise or give notice again. The city manager shall sell such supplies, materials or equipment to the highest responsible bidder. In case of a tie, if necessary, the city manager shall cast lots to determine to whom to sell, or the city manager may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders. (Prior Code, Sec. E13)

SECTION 7-108

WHEN COMPETITIVE BIDDING IS NOT REQUIRED ON SALES.

The city manager may sell the following without giving an opportunity for competitive bidding after it has declared them obsolete or surplus:

1. Surplus or obsolete supplies, materials or equipment whose total value does not exceed Two Thousand Five Hundred Dollars (\$2,500.00) in a single transaction; and

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

(Prior Code, Sec. E14)

Charter Reference: Sale of property valued at Twenty-five Thousand Dollars (\$25,000.00) or more procedure, Section 28 of the charter.

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SECTION 7-109 GENERAL PROVISIONS OF ADMINISTRATIVE SERVICES

This article sets forth fees for administrative services performed by City of Dewey personnel. In regard to the provision of copies of accident reports, police incident reports, various other police reports, notary seals and copies of other pertinent city documents.

SECTION 7-110 OBJECTIVES

To compensate the city for services provided to the citizenry and recover costs. To deter excessive unwarranted requests for administrative services. To place the City of Dewey in-line with other agencies performing the same tasks.

SECTION 7-111 FEE SCHEDULE

Police Criminal Check	\$2.00
Accident Report	\$2.00
Incident Report (cover sheet only)	\$1.00
Incident Report (in total)	\$2.00
All other police reports	\$2.00
Notary Seal	\$2.00
Copies (per copy)	\$0.25
Credit Card Convenience Fee	
\$0.00-\$75.00	\$2.50
\$76.00-\$100.00	\$3.50
\$100.00-plus	3% of total amount

SECTION 7-112 SEVERABILITY

In any section, subsection, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, district, and independent provisions, and such holding shall not affect the validity of the remaining portions of ordinance (97-1380).

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SECTION 7-201 CITATION AND CODIFICATION

This chapter shall be known and may be cited as "City of Dewey Sales Tax Ordinance." (Prior Code, Sec. E6a)

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

Ed. Note: Ordinance Number 68-1193, effective October 1, 1968, levied a one cent tax. Ordinance Number 76-1232, effective July 1, 1976, levied a second one cent tax. Ordinance Number 86-1322, 3-10-86, effective August 1, 1986, continued a third cent tax until August, 1989. (Ordinance Number 83-1314, effective August 1, 1983, had levied a one cent tax for fire equipment which was repealed by Ordinance 81-1290, 11/02/81). Effective August 1, 2005, An Ordinance Number 2005-1447 shall be known and shall be cited as the Dewey Capital Improvement Sales Tax Ordinance of 2005. Sales subject to tax is hereby levied an exercise tax, cumulative and in addition to other taxes hereto levied by the City of Dewey, and at the rate of one percent (1%).

Ordinance Number 99-1392 extending the Dewey Sales Tax Ordinance of 1983, Ordinance Number 93-1357 extending the Dewey Sales Tax Ordinance of 1983, Ordinance Number 83-1314 for a period of thirty-six (36) months. Effective April 2, 1996. Ordinance Number 2005-1447 shall become effective

after the 1st day of August, 2005. The provisions of this ordinance shall apply and continue to apply for a period of one hundred twenty (120) months following the effective date.

SECTION 7-202 DEFINITIONS

The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 and in Section 57 and 593 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter. (Prior code, Dec. E6a)

SECTION 7-203 TAX COLLECTOR DEFINED

The term "tax collector as used in this chapter means the department of the city or the official agency of the state duly designated according to law or contract, and authorized by law to administer the collection of the tax levied in this chapter. (Prior Code, Sec. E6a)

SECTION 7-204 CLASSIFICATION OF TAXPAYERS

For the purpose of this chapter the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code. (Prior Code, Sec. E6a)

SECTION 7-205 SUBSISTING STATE PERMITS

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this chapter, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Prior Code, Sec. E6a)

SECTION 7-207 PURPOSE OF REVENUES

A. It is the purpose of the first and second cent sales tax, levied by Ordinance 68-1193 and 76-1232, to provide revenues for the support of the functions of the municipal government of the city.

B. It is hereby declared to be the purpose of the third cent sales tax, levied by Ordinance number 86-1322, until August 1, 1989, to provide revenue sufficient to defray cost of necessary street, road and transportation repairs and improvements, including acquisition of such street-work machinery and equipment as may be necessary, as determined by the city council or the city manager. (Prior Code, Sec. E6a; Ordinance No. 76-1232, 5/24/76; Ordinance No. 83-1314, 5/16/83; Ordinance Number 86-1322, 3/10/86; Ordinance No. 2005-1447, 01/03/05)

SECTION 7-208 TAX RATE: SALES SUBJECT TO TAX

There is hereby levied an exercise tax of three percent (3.4%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code including but not exclusive of the following:

1. Tangible personal property;
2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service exempt by this chapter;
3. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, Pullman car companies, airlines and all other means of transportation for hire;

4. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;

5. Printing or printed matter of all types, kinds, and characters and the service of printing or over-printing, including the copying of information by mimeograph or multigraph or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information on magnetic tapes furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house or tourist camps;

7. Service of furnishing storage or parking privileges by auto hotels and parking lots;

8. Selling, renting or otherwise furnishing computer hardware or software or coding sheets, cards or magnetic tapes on which prewritten programs have been coded, punched or otherwise recorded;

9. Food, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;

11. Dues or fees to clubs including free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Sales of tickets, fees or other charges made for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities, including free or complimentary admissions which shall have the value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, when no admission is charged spectators, such as tennis, racket ball or hand ball courts;

14. Charges made for the privilege of using items for amusement, sports, entertainment or recreational activity such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment or other recreational activities, such as bowling shoes, skates, golf carts, or other sports and athletic equipment;

16. The gross receipts from sales through any vending machine, without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

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

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

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

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

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

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

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

(Prior Code, Sec. E6a; Ord. No. 76-1232, 5/24/76; Ord. No. 86-1322, 3/10/86, Ord. No. 2019-1570 3/04/2019)

SECTION 7-209**EXEMPTIONS; SALES SUBJECT TO OTHER TAX.**

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

1. Sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax levied by state law has been paid;
2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied by state law has been paid;
3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under state law. This exemption shall not apply when such products are sold to consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state; and
4. Sale of aircraft on which the tax levied pursuant to Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid. The provisions of this Paragraph 4 shall not become operative until July 1, 1984.

(Prior Code, Sec. E6a)

SECTION 7-210**EXEMPTIONS; GOVERNMENTAL AND NONPROFIT ENTITIES.**

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

1. Sale of tangible personal property or services to the United States Government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of the state; provided, all sales to contractors in connection with the performance of any contract with the United States Government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this chapter, except as hereinafter provided;
2. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;
3. Sale of food in cafeterias or lunchrooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;
4. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members;
5. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

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

7. Sales of tangible personal property or services to the 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; and

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

(Prior Code, Sec. E6a)

SECTION 7-211 EXEMPTIONS; GENERAL.

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

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

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

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

4. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this chapter. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales

of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit;

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

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

7. Sales of medicine or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicine or drugs. This exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes; and

8. Nothing herein shall be construed as limiting or prohibiting the 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. E6a)

SECTION 7-212 EXEMPTIONS; AGRICULTURE.

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

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

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

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

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

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;
- b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products;
- c. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;
- d. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;
- e. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and
- f. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;

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

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

5. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands. Each purchaser of farm machinery, repair parts thereto or fuel must certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is engaged in farming or ranching and that the farm machinery, repair parts thereto or fuel will be used only in farming 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. E6a)

SECTION 7-213 EXEMPTIONS; MANUFACTURERS.

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

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

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

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

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; or

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

(Prior Code, Sec. E6a)

SECTION 7-214 EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS.

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

1. The transfer of tangible personal property, as follows:

- a. From one corporation to another corporation pursuant to a reorganization. As used in this subparagraph the term "reorganization" means a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
- b. In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;
- c. To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the property prior to the transfer;
- d. To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer; or
- e. From a partnership to the members thereof when made in kind in the dissolution of such partnership; 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. E6a)

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

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the Oklahoma Sales Tax Code. (Prior Code, Sec. E6a)

SECTION 7-216 PAYMENT OF TAX; BRACKETS.

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

B. The bracket system for the collection of the city sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the city and the tax collector in the collection of the city sales tax and the state sales tax. (Prior Code, Sec. E6a)

SECTION 7-217 TAX CONSTITUTES DEBT.

The taxes, penalty and interest due under this chapter shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (Prior Code, Sec. E6a)

SECTION 7-213 VENDOR'S DUTY TO COLLECT TAX; PENALTIES.

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

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

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

D. Any sum or sums collected or required to be collected in accordance with this chapter shall be deemed to be held in trust for the city. Any person, firm, corporation, joint venture or association that wilfully or intentionally fails, neglects or refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor. (Prior Code, Sec. E6a)

SECTION 7-219 RETURNS AND REMITTANCES; DISCOUNTS.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances of tax collected hereunder and shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of state sales taxes. (Prior Code, Sec. E6a)

SECTION 7-220 INTEREST AND PENALTIES; DELINQUENCY.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if the delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this chapter. (Prior Code, Sec. E6a)

SECTION 7-221 WAIVER OF INTEREST AND PENALTIES.

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes. To accomplish the purposes of this section, the applicable provisions of Section 220 of Title 68 are hereby adopted by reference and made a part of this chapter. (Prior Code, Sec. E6a)

SECTION 7-222ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

Refund of erroneous payment of the city sales tax herein levied may be made to any taxpayer making the erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this section, the applicable provisions of Section 227 of Title 68 are hereby adopted by reference and made a part of this chapter. (Prior Code, Sec. E6a)

SECTION 7-223FRAUDULENT RETURNS.

In addition to all civil penalties provided by this chapter, the wilful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to a fine and imprisonment as provided in Section 1-108 of this code. (Prior Code, Sec. E6a)

SECTION 7-224RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared, and to protect the same the provisions of the State Sales Tax Code, Section 205 of Title 68 of the Oklahoma Statutes, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if here set forth in full. (Prior Code, Sec. E6a)

SECTION 7-225AMENDMENTS.

The people of the city, by their approval of the sales tax ordinance hereby authorize the mayor and city council, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this chapter as may be necessary or proper for efficiency and fairness. Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the city as provided by law. (Prior Code, Sec. E6a)

SECTION 7-226PROVISIONS CUMULATIVE.

The provisions of this chapter shall be cumulative and in addition to any or all other taxing provisions of city ordinances. (Prior Code, Sec. E6a)

CHAPTER 3

TELEPHONE EXCHANGE FEE

Section 7-301	Fee levied on telephone exchanges.
Section 7-302	Fee to be in lieu of other fees, taxes.
Section 7-303	Fee levied on nine-one-one service.
Section 7-304	Tax imposed.
Section 7-305	Limitation on tax at one location.
Section 7-306	Collection and remittance.
Section 7-307	Disposition of funds.
Section 7-308	City Manager to administer 9-1-1 service.
Section 7-309	Intergovernmental participation.
Section 7-310	Administrative fee.

SECTION 7-301 FEE LEVIED ON TELEPHONE EXCHANGES.

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the city in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the city. The inspection fee and charge shall be on a calendar year basis and shall be due and payable to the city on or before May 1 in each year for the whole of the calendar year next preceding the date and shall be paid into and appropriated and expended from the general revenue fund of the city. (Prior Code, Sec E1)

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

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

During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the city. (Prior Code, Sec. E2)

SECTION 7-303 FEE LEVIED ON NINE-ONE-ONE SERVICE

WHEREAS, the Oklahoma Legislature enacted Senate Bill No. 579 on June 5, 1986, known as the Nine-One-One Emergency Number Act, which authorized the governing body of a municipality to provide for the operation of an emergency telephone service and to levy an emergency tax on exchange telephone service.

That from and after December 1992, there shall be imposed a tax of three (3) percent of the tariff charges for exchange telephone service or its equivalent of the local exchange telephone company providing service within the city limits of Dewey, Oklahoma. The tax shall continue for three years except as modified as required by law.

WHEREAS, a tax has been imposed on telephone services within the City of Dewey, Oklahoma, for a period of three years for the purpose of operating and maintaining a 911 emergency telephone service, and Ordinance No. 99-1393 imposing said tax will expire on December 21, 2001; and

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SECTION 7-304

TAX IMPOSED

From and after January 1, 2005, there shall be imposed a tax of five percent (5%) on the tariff charges for exchange telephone service within the City limits of Dewey, Oklahoma. The tax shall be effective for a period of two years or until such time as may be modified by the requirements of law. (Revised 9/15/05; Ordinance No. 2005-1461)

SECTION 7-305

LIMITATION ON TAX AT ONE LOCATION

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

SECTION 7-306

COLLECTION AND REMITTANCE

The tax shall be collected monthly by the local telephone exchange company and shall be remitted to the City Clerk within twenty-five (25) days of the close of the month in which such taxes were collected.

SECTION 7-307

DISPOSITION OF FUNDS

Funds collected from this tax shall be spent for engineering installation, administration, and other recurring or one-time costs necessary to implement, administer, operate or maintain emergency nine-one-one telephone service of the City of Dewey.

SECTION 7-308

CITY MANAGER TO ADMINISTER 9-1-1 SERVICE

The City Manager or a person designated by him is authorized to administer the emergency nine-one-one telephone service of the City of Dewey.

SECTION 7-309

INTERGOVERNMENTAL PARTICIPATION

The City Manager is hereby authorized to cooperate with other governing bodies who may impose a similar tax and who wish to participate in the City of Dewey's emergency nine-one-one telephone service.

SECTION 7-310

ADMINISTRATIVE FEE

The local exchange company providing exchange telephone service within the City of Dewey shall be entitled to retain an administrative fee of not more than three percent (3%) of the tax imposed and collected pursuant to Section 7-303.

CHAPTER 4

UTILITY FEE

Section 7-401	Fee upon the gross receipts from sales of gas.
Section 7-402	Application of fee.
Section 7-403	Payments quarterly.
Section 7-404	Ouster for nonpayment.
Section 7-405	Prior lien.

SECTION 7-401 FEE UPON THE GROSS RECEIPTS FROM SALES OF GAS.

There is hereby levied and assessed an annual fee of two percent (2%) upon the gross receipts from residential and commercial sales in the city levied on persons engaging in the business of furnishing power, light, heat, gas, electricity, or water in the city. The tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by such city. (Prior Code, Sec. E3)

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

Ed. Note: Ord. No. 77-1246 levied a 2% fee on Gas Service Company in lieu of franchise tax.

SECTION 7-402 APPLICATION OF FEE.

The fee levied in this chapter shall not apply to any person, firm, association or corporation operating under a valid franchise from the city. (Prior Code, Sec. E3)

SECTION 7-403 PAYMENTS QUARTERLY.

The fee levied herein shall be levied for a term of not less than one year and shall be payable quarterly and placed in the general revenue fund of the city. (Prior Code, Sec. E4)

SECTION 7-404 OUSTER FOR NONPAYMENT.

Any person, firm, or corporation failing or refusing to pay such fee when levied shall be regarded as a trespasser and may be ousted from such city, and in addition thereto, an action may be maintained against such person, firm, or corporation for the amount of the fee, and all expenses of collecting same, including reasonable attorney's fees. (Prior-Code, Sec. E5)

SECTION 7-405 PRIOR LIEN.

The fee so imposed shall constitute a first and prior lien on all the assets located within the city of any person, firm, or corporation engaged in the business of selling such utilities within the city limits of the city. (Prior Code, Sec. E6)

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CHAPTER 5

USE TAX

SECTION 7-501 CITATION AND CODIFICATION

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

State Law Reference: Authority to levy (use) taxes for municipal purposes are pursuant to the provisions of Sections 1411 and 2701 et seq. Of Title 68 of the Oklahoma Statutes, between the Oklahoma Tax Commission and the City of Dewey for administration of Ordinance No. 99-1392 levying a municipal use tax of three (3%) percent within the Municipality.

SECTION 7-502 Excise Tax on Storage, Use or Other Consumption of tangible, Personal Property Levied.

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

SECTION 7-503 Exemptions. The provisions of this Ordinance shall not apply:

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

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- (d) in respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the Sales Tax Code of the municipality. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
- (e) in respect to the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code on the municipality;
- (f) in respect to the use of any article of tangible, personal property brought into the municipality by an individual with intent to become a resident of this municipality where such personal property is for such individual's personal use or enjoyment;
- (g) in respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;
- (h) in respect to livestock purchased outside Oklahoma and brought into this municipality for feeding or breeding purposes, and which is later resold.

SECTION 7-504

Time When Due—Returns—Payment.

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

SECTION 7-505

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 suite as any other debt.

SECTION 7-506

Collection of Tax by Retailer or Vendor.

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

SECTION 7-507

Collection of Tax by Retailer or Vendor not Maintaining a Place of Business within State or Both within and Without State—Permits.

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this municipality and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this municipality. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this municipality. Such authority and permit may be 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 municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's

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or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipality Sales Tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-508 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 Ordinance or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S.1981, Section 1408, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel said corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this Ordinance, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

SECTION 7-509 Remunerative Deductions Allowed Vendors or Retailers of Other States.

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

SECTION 7-510 Interest and Penalties—Delinquency.

Section 217 of Title 68 O.S. 1981 is hereby adopted and made a part of this Ordinance, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Ordinance. 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 Ordinance 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 Ordinance.

SECTION 7-511 Waiver of interest and Penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipality Tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.W. 1981, Section 227, and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Ordinance.

SECTION 7-512 Erroneous Payments—Claim for Refund.

Refund of erroneous payment of the municipality Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set fourth in 68 O.S. 1981, Section 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Ordinance.

SECTION 7-513 Fraudulent Returns.

In addition to all civil penalties provided by this Ordinance, 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

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purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Ordinance shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00) and costs. Each day of noncompliance with this Ordinance shall constitute a separate offense.

SECTION 7-514 Records Confidential.

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

SECTION 7-515 Provisions Cumulative.

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

SECTION 7-516 Provisions Severable.

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

SECTION 7-517 Definitions.

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

1. City/Town shall mean the City of Dewey, Oklahoma.
2. Transaction shall mean sale.

SECTION 7-518 Tax Collector Defined.

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

SECTION 7-519 Classification of Taxpayers.

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

SECTION 7-520 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 Ordinance hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipality permit for the same purpose.

FINANCE AND TAXATION

SECTION 7-521

Purposes of Revenues.

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

SECTION 7-522

Effective Date.

That this Ordinance shall become effective on and after December 6, 1999.

THIS ORDINANCE PERTAINS TO HOTEL TAX

PART 7. FINANCE AND TAXATION, OF THE CODE OF ORDINANCE, OF THE CITY OF DEWEY, OKLAHOMA, CODE IS HEREBY AMENDED BY ADDING CHAPTER 6, HOTEL TAX, WHICH READS AS FOLLOWS:

SECTION 7-601 Definitions.

As used in this ordinance:

(A) Hotel shall mean any building or buildings, trailer, other facility, or space unless otherwise excluded, in which the public may, for consideration, obtain sleeping accommodations. The term shall include hotels, apartment hotels, motels, tourist homes, houses or court, lodging houses, inns, bed and breakfast, rooming houses, trailer houses, trailer motels, recreation vehicle spaces, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents", as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration. The term shall not include hospitals, sanitariums or nursing homes.

(B) Occupancy shall mean the use or possession, or the right to the use or possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of the room or rooms.

(C) Occupant shall mean the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

(D) Operator shall mean any person operating a hotel within the city, included, but not limited to, the owner, proprietor, manager, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

(E) Permanent Resident shall mean any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least ninety (90) consecutive days during the current calendar year or preceding year.

(F) Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

(G) Return shall mean any report filed or required to be filed as herein provided.

(H) Room shall mean any room or suite of rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than as a "place of assembly."

(I) Place of Assembly shall mean a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiard, bowling and table tennis rooms; halls; rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar use and occupancy.

(J) Tax shall mean the tax levied pursuant to the ordinance.

SECTION 7-602 Tax Rate. There is hereby levied an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this City, except that the tax shall not be imposed where the rent is less than the rate of five dollars (5.00) per day.

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SECTION 7-603 Exemptions.

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

- (1) Permanent residents;
- (2) The United States Government or any agency or division thereof;
- (3) The State of Oklahoma or any political subdivision thereof; and,

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

SECTION 7-604 Tax to be separately designated on bills. The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charge or payment of rent for occupancy issued or delivered by the operator. In the absence of a certificate of exemption as specified above, it shall be presumed that the rent on all occupancies is taxable, and the burden of proof shall be on the operator.

SECTION 7-605 Operators' Duties.

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

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

(C) Returns

(1) Every operator shall file with the City Manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of the ordinance. Such return shall be filed within the first fifteen (15) days after the end of each such month.

(2) Each operator shall further file with the City Manager a copy of their completed Oklahoma state sales tax form within ten (10) days after June 30th, September 30th, December 31st, and March 31st of each year following the effective date of the ordinance.

(3) The form of return shall be prescribed by the City Manager and shall contain such information as may be deemed necessary for the proper administration of the ordinance. The City Manager may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

(D) Payment of Tax. At the time of filing a return of occupancy and of rents, each operator shall pay to the City Treasurer the taxes imposed by the ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and

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(E) Interest. If any tax levied by the ordinance becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1 ½ %) per month on the unpaid balance from the date of delinquency.

SECTION 7-606 Bond Required. Where the City Manager believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the City Manager deems it necessary in order to protect revenues under the ordinance may require such operator to file with the city a bond issued by a surety company authorized to transact business in the state in such amount as the City

Manager may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the City Manager determines that an operator is to file such bond, the City Manager shall give notice to such operator specifying the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five (5) days the operator shall request in writing a hearing before the City Commission, at which time the necessary propriety and amount of the bond shall be determined by the City Commission. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, a cash or securities escrow, in an amount and under terms approved by the City Manager, may be deposited with the City Manager, who may at any time after five (5) days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale.

SECTION 7-607 Assessment and Determination of Tax. If a return required by the ordinance is not filed, or if a return, when filed, is incorrect or insufficient, the amount of tax due shall be assessed by the City Manager from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax, (a) unless the person against whom it is assessed, shall apply in writing to the City Commission within ninety (90) days after the City gives notice of such assessment, for a hearing; or (b) unless the City Manager decides to reassess the same. After such hearing, the City Commission shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

SECTION 7-608 Refunds.

(A) Procedure. The City Manager shall direct the refund or credit of any tax erroneously, illegally or unconstitutionally collected if written application to the City Manager for such refund is made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative of the City Manager, subject to existing limits on the authority of the City Manager as to amount. The City Manager, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person who has collected and paid such tax to the City Treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.

(B) Determination and Hearing. Upon application for a refund the City Manager may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination as to the refund, the City Manager shall give written notice thereof to the applicant. Such determination shall be final unless the

applicant, within ninety (90) days after such notice shall apply in writing to the City Commission for a hearing. After such hearing the City Commission shall give written notice of its decision to the applicant.

SECTION 7-609 Notices. Notices provided for under this section shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the city to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by 7-612.

SECTION 7-610 Remedies Exclusive. The remedies provided in this chapter shall be the exclusive remedies available to any person for the review of tax liability imposed by this chapter.

SECTION 7-611 General Powers of the City Manager. In addition to all other powers granted to the City Manager, the City Manager is hereby authorized:

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

SECTION 7-612 Certificates of Registration. Every operator shall file with the City Manager a certificate of registration in a form prescribed by the City Manager within ten (10) days after the effective date of the ordinance, or in the case of operators commencing business or opening new hotels after such effective date, within three days after such commencement or opening. The City Manager shall, within five days after such

registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable, non-transferable, and shall be surrendered immediately to the City Manager upon the cessation of business at the hotel named, or upon its sale or transfer.

SECTION 7-613 Use of Funds.

(A) All taxes collected pursuant to this chapter shall be set aside and used exclusively to encourage, promote and foster, economic development, cultural enhancement and tourism in DEWEY, Oklahoma and the cost of enforcing this chapter.

(B) The City of DEWEY, Oklahoma is authorized to retain from the initial proceeds of the hotel tax an amount equal to the costs of the election concerning the ordinance and borne by the city.

(C) In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount not to exceed one percent (1%) of the current taxes due may be allowed to the operator by agreement. No discount shall be allowed for the payment of delinquent taxes.

SECTION 7-614 Records Confidential. The confidential and privileged nature of the records file concerning the administration of the hotel tax is legislatively recognized and declared and, in order to protect the same, the provisions of 68 O.S. (1991), Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, are hereby adopted by reference and made fully effective and applicable to the administration of the Dewey, Oklahoma Hotel Tax as if here set forth.

SECTION 7-615 Criminal Penalties.

(A) The wilful intent or refusal of any taxpayer to make reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be deemed an offense and punishable as provided under the provisions of Section 1-108 of the Code of Ordinances of the City of DEWEY, Oklahoma.

(B) The failure by an operator (1) to file a security bond as required, or (2) to register or to display the certificate of registration, or (3) to separately state the tax on the bill or to collect such tax from the occupant shall be deemed an offense and punishable as provided under the provisions of Section 1-108 of the Code of Ordinances of the City of DEWEY, Oklahoma.

SECTION 7-616

Civil Remedies.

(A) Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this chapter as herein provided, the Mayor may authorize the director of finance to file notice of liens on behalf of the city against the real estate upon which the hotel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to 68 O.S. 1981, Section 2701 and Section 2704.

(B) The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68 O.S. 1981, Section 2704.

(C) The City Manager shall notify the person owing the tax by personal service or by certified mail that the City of DEWEY, Oklahoma will file such liens if any delinquent lodging taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.

(D) The City Manager may also authorize the City Attorney to institute an action in personam and in rem to enforce payment and collect any delinquent taxes, penalties and/or interest.

SECTION II. The effective date of this Ordinance is at the date subsequent to the approval of this Ordinance by a majority of the registered voters within the City of DEWEY, Oklahoma.

SECTION III. The provisions hereof shall be cumulative, and in addition to any other taxing provisions of City ordinances. The provisions hereof are severable, and it is specifically declared to be the intention of the governing body to collect the tax, notwithstanding any court ruling concerning the invalidity of other sections or subsections of the ordinance.