

# CHARTER FOR THE CITY OF CHEROKEE, STATE OF OKLAHOMA

Prepared and proposed by a Board of Freeholders composed of (2) two members from each of the four (4) wards of the City, chosen at an election held on the 8<sup>th</sup> day of April 1920, under and pursuant to the provisions of Article XVIII of the Constitution, and the Laws of the State of Oklahoma.

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INVOKING THE GUIDANCE OF ALMIGHTY GOD, WE, THE PEOPLE OF THE CITY OF CHEROKEE, IN ORDER TO SECURE THE BENEFITS OF HOME RULE, TO ENCOURAGE EFFICIENT AND BUSINESSLIKE METHODS IN THE TRANSACTION OF MUNICIPAL AFFAIRS, TO PROMOTE CIVIC ADVANCEMENT AND THE GENERAL WELFARE, DO ORDAIN AND ESTABLISH THIS CHARTER FOR THE CITY OF CHEROKEE, IN THE STATE OF OKLAHOMA.

### ARTICLE I. Organization and Boundaries

SECTION I. Organization: All inhabitants of the City of Cherokee, Alfalfa County, Oklahoma, as the boundaries and limits of the City of Cherokee are herein established, or may hereafter be established, shall be a body politic and corporate under, and

to be known by the name and style of "The CITY OF CHEROKEE," with such powers rights, privileges and immunities as are herein, and by the Constitution and laws of the State of Oklahoma, specifically or impliedly provided.

SECTION II. Boundaries: All limits to, and boundaries of the City of Cherokee are hereby established coextensive with and coincident to the limits and boundaries as they exist at the time of the adoption of this Charter. The boundaries of the respective wards of said City shall, until altered as provided herein, remain as they exist at the time of the adoption of this Charter.

SECTION III. Additions: Any territory adjoining the present, or future boundaries of the City of Cherokee may, from time to time, be added to, admitted, and become a part of said City, as by law now or hereafter provided. Property lying within the City limits, and not platted into lots and blocks, may be platted as provided by law.

SECTION IV. Wards Changed: When a petition shall be presented to the Commission, signed by a majority of the legal voters of the City, the majority to be determined by the number of names registered in said City, at the time of the last regular election, praying for a change in the names, number, or boundary of the wards of said City, the Commission shall, at once, cause to be published in a weekly newspaper of said City, in at least three issues, a notice of the day, hour, and place of meeting, at which it will consider such petition. If the Commission shall decide that it is for the best interest of said City then it may make the change in accordance with the petition, the same to take effect at the next regular election, as provided by the laws of the State.

## ARTICLE II. Powers of City

SECTION 1. General Power: The City of Cherokee shall have perpetual succession, and shall succeed to, own and possess all the property, rights, privileges, franchises, powers, and immunities now belonging to the present corporation, known as the City of Cherokee, and shall be liable for all debts and obligations for which said present corporation is now liable; shall have the power to adopt and use a common seal; to sue and be sued in all courts; to make contracts; to take and acquire property by purchase, condemnation or otherwise; to hold, lease,

mortgage, convey, or otherwise dispose of its property, within or without the limits of said City; and all other powers that may hereafter be given it by the Constitution and laws of Oklahoma; and where any provision of the Charter shall be in conflict with the laws of the State, relating to the cities of the first class, in force at the time of the adoption and approval of this Charter, the provisions of this Charter shall prevail. Said city shall have power to enact and enforce all ordinances necessary to protect health, life and property; to define, prevent and summarily abate and remove nuisances; to preserve and enforce good government and order in order to protect lives, health and property of the inhabitants of said City; and to enact and enforce all ordinances upon any subject; provided, that no ordinance shall be enacted, inconsistent with the general laws of the State of Oklahoma, and of the Constitution of the State.

The legislative, executive, and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof, that the specifications of particular powers, by any other provision of this Charter, shall never be construed as limiting or impairing the effect of the general grant or powers hereby made.

Said City shall have the power to receive bequests, gifts or donations of all kinds of property in fee simple, or in trust for charitable, or public purposes, and perform all acts necessary to carry out the purposes of such bequests, donations or trusts, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the bequest, gift, or donation.

SECTION II. Former Government in Force: All existing ordinances of said City not inconsistent herewith, or inapplicable under the altered form of Municipal government provided herein, shall be and continue in full force and effect until amended or appealed, or until they expire by their own limitations; and no existing right, action, suit, proceeding, or contract shall be affected by the change in the form of the government of the City; but all shall continue as though no such change had taken place; and all debts, penalties and forfeitures which had accrued, or which may hereafter accrue by virtue of anything heretofore done, or existing, shall inure to the benefit of said City, and may be sued for, and recovered by the City as though this Charter had not been adopted. Nothing herein, however,

shall legalize or make legal any invalid indebtedness of the City heretofore contracted, or incurred or impairing any defense against the payment of the same; nor shall the adoption of this Charter in any wise interfere with any proceeding heretofore instituted relating to the levy or collection of taxes, special assessments, or levies of any nature, or with any proceedings to enforce the payment of the same; and all contracts heretofore entered into by the City shall remain in full force and effect, and be completed under the ordinances existing at the time of the adoption of this Charter.

SECTION III. Special Powers: The Commission shall have power, by ordinance to:

A) Regulate the keeping of public places, theaters, picture shows, dance halls; the driving of all public conveyances; the sale of all foods and drugs; and keeping of certain animals within the City limits; the running at large of animals and fowls; minors being upon the streets between certain hours; the opening of places of business on Sabbath day; the use, speed, handling and parking of automobiles, motorcycles, tractors and other power driven vehicles upon the streets; and the collection of occupation taxes.

B) Prohibiting gambling, profanity, dram shops; public resorts, bawdy houses; prize fights; carrying of weapons; beggars, fortune-tellers and vagrants from plying their arts and professions; the making of unnecessary noises, and use of fireworks; cruelty to animals; driving loose animals through the streets; the use of roller skates and bicycles upon the sidewalks; dogs from running at large, and providing a dog tax.

C) Providing places of detention for incorrigibles, and work places and prisons for criminals.

SECTION IV. Vitalizing Provision: The Commission shall have the power to enact such substantive and remedial ordinances, adopt such resolutions, establish such rules, and provide such measures, fines, and punishments, as shall be necessary for and convenient in giving execution and effect to this Charter, and every part and portion thereof

#### ARTICLE III. Officers

SECTION I. Elective and Appointive: The elective officers of

the City of Cherokee shall be five Commissioners, and a City Treasurer. The appointive officers of said city, who are to be appointed by the Commission shall be City Clerk, City Manager, City Attorney, and Municipal Judge. All other necessary officers of City shall be appointed by the City Manager with the consent and approval of the Commission.

SECTION II. Oath and Bond: All officers of the City, elective or appointive, upon entering upon the duties of office, shall take the oath of office prescribed by the Constitution of the State, and shall, before entering upon the duties of office, give such bond as may, by ordinance, be required, the same to be approved by the Commission, for the faithful performance of the duties of the office. Provided, that each Commissioner shall give a good and sufficient bond in the sum of \$1,000.00 to be approved by the City Treasurer. And provided, further, that all heads of departments shall take oath, and give bond, if required by ordinance, but no oath or bond shall be required of laborers. All bonds shall be given in favor of the City of Cherokee.

SECTION III. Vacancies: A vacancy shall exist when an elective officer fails to qualify within twenty days after notice of his election, dies, resigns, removed from the City, absents himself therefrom for a period of ninety days, except on account of sickness, is convicted of a felony, or is otherwise legally disqualified. If the office of a Commissioner or of City Treasurer shall become vacant from any cause, the Commission shall appoint some eligible person to fill such vacancy, who shall hold office until the next regular municipal election; such appointed officer shall hold his office until his successor is elected and qualified. All elective officers shall hold their respective offices, subject to the provisions of the recall, as herein provided, or may be removed from office as provided by law.

SECTION IV. Former Officers Retained: All officers, appointees and employees of the present corporation of the City of Cherokee, shall continue in their office and employment upon the adoption of this Charter, and the organization of the new City government until their successors are chosen and qualified, or, until their services are dispensed with by order of the Commission or City Manager and the Mayor and City Council shall continue in office until the Commissioners are elected and qualified.

SECTION V. Compensation: The Commissioners shall serve without compensation. The Commission shall, by ordinance, fix the compensation of the City Manager, City Treasurer, City Clerk, City Attorney, and other officers of the City, not otherwise provided in this Charter. Provided, that the Commission shall, by ordinance, fix the fees to be received by the Municipal Judge, for his services rendered, and nor more which he shall receive his pay in the same manner as other City officials.

The City Manager shall, with the approval of the Commission fix the number and compensation of all the officers, heads of departments and employees appointed by him.

Except as otherwise provided in this Charter, all fees or moneys collected by any officer or employee shall be paid to the City Clerk, and receipts taken therefore, which receipts shall show the purpose for which the money was collected.

No elective or appointive officer shall receive any further compensation from the City than that specified in the salary attached to his office or position at the time of his election or appointment. No person being, under any circumstances, permitted to draw more than one salary from the same department of the City, (In accordance with Oklahoma State Statutes, this section is not intended to prevent a Commissioner from being paid for Fire or EMT runs and allowable expenses associated therewith).

SECTION VI. Appointments Indefinite As to Time: No appointment to any office or place in the City shall be made for any definite time. Provided, that appointments to fill vacancies of elective officers shall be for the unexpired term.

SECTION VII. Not to Hold Two Offices Elective or Appointive: No person holding office by election or appointment under the United States Government, the State of Oklahoma, or any other state or municipality shall hold any position or office under said City.

SECTION VIII. No Interest in Contracts: No officer or employee of the City, elected or appointed, shall be interested directly or indirectly in any contract or job of work, or for material, or supplies, or the profits thereof, or any purchase made for, or sales made by, to, or with the City, or own Stock in any

corporation having any contract or subcontract, for doing any contract, or job or work, and all such contracts with such City officer or employee, shall be void. The violation of this clause shall be deemed a sufficient cause for removal from office or employment of such officer or employee and shall be sufficient to subject the offender to prosecution under the laws of the State of Oklahoma.

SECTION IX. Bribery: It shall be unlawful for any candidate for office, or for any officer or employee of the City, directly or indirectly, to give, or promise to give, any person or persons, any office, position, employment, or anything of value for the purpose of influencing or obtaining support, political or otherwise, aid, or influence of any person or persons the doing of any of which things shall be grounds for removal from office of such officer, employee, or candidate, if elected, and he shall be amenable to the laws of the State for the offense committed.

SECTION X. Malfeasance in Office: No person, employee, agent or servant of the City shall take, accept, or receive either directly or indirectly, any fee, money, employment, gift, compensation, reward, gratuity, or anything of value, or otherwise, except the official salary for or because of the performance, or nonperformance of any duties of his office, or any action or failure to act in regard or incident thereto. Any officer, employee, agent or servant who shall violate either the letter or spirit of this section shall be guilty of a crime, and upon conviction therefor shall be punished as provided by the laws of the State, and removed from office.

SECTION XI. Nepotism: No person within the third degree of any Commissioner or the City Manager shall be appointed to any City office or employment.

SECTION XII. No Commissioner shall be appointed to any office created by the Commission during his term of office, until the expiration of one year after his connection with said office shall have been served.

#### ARTICLE IV. Commission

SECTION I. Creation: The legislative powers of the City shall be vested in a Commission composed of five members.

No person shall be eligible to be a member of a Commission, unless he shall have been a citizen of the United States, and a resident of the City, for at least one year prior to his election or appointment, and have resided in the Ward from which he is elected or appointed for at least thirty days prior thereto, and a registered voter of the city for a minimum of six (6) months prior to filing the candidate's declaration of candidacy. Any Commissioner elected from one Ward and moving to another Ward in said City, or moving outside of said Ward, shall thereby forfeit his office.

SECTION II. Election Districts: One Commissioner shall be elected by each of the qualified electors in each of the four wards in the City; and one Commissioner shall be elected at large beginning as indicated herein, and shall hold office until his successor is elected and qualified, unless sooner removed as herein, provided. In 2011, Commissioners from Ward 2 and Ward 4 will be elected for a term of four (4) years, and Commissioners from Ward 1, Ward 3, the Commissioner at Large and the City Treasurer will be elected for a term of two (2) years. Thereafter, all elected officers will be elected for a term of four (4) years.

SECTION III. Mayor: The Commissioner elected at large shall be the Mayor. He shall have no power to veto any measure, and shall have a vote on all questions.

The Mayor shall be recognized as the official head of the City for all ceremonial purposes; by the courts for serving civil processes; and by the Governor for military purposes. In the time of public danger, or emergency, he may, with the consent of the Commission, take command of the police and maintain order, and enforce laws.

Mayor Pro Tem: At the first meeting of the Commission it shall, by a majority vote, elect one of its members Mayor Pro Tem, who shall, in the absence of the Mayor, serve as Mayor with the title of Mayor Pro Tem, with all of the powers and duties vested in the Mayor.

SECTION IV. Powers: The Commissioners sitting as a Commission, shall have the same power to enact all laws and ordinances for the City possessed by the mayor and city council of a city of the first class under the Constitution and laws of the State of Oklahoma, at the time of the adoption of this Charter, together



with all other powers by this Charter granted, with the power to direct and supervise the duties of the City Manager, and all powers hereafter conferred by this Charter, and by the Constitution and the laws of the State of Oklahoma.

SECTION V. Ordinances Adopted: Three members of the Commission shall constitute a quorum, and the affirmative vote of three members shall be necessary to adopt any motion, ordinance, or pass any measure. Upon every vote the ayes and nays shall be called and recorded, and every motion, resolution, or ordinance shall be reduced to writing and read before the final vote is taken thereon. Every ordinance passed by the Commission must be signed by the Mayor or by the Mayor Pro Tem, when so acting, and be recorded and published before the same shall be in force and effect, except as otherwise herein provided.

SECTION VI. Meetings: The regular meetings of the Commission will be fixed by Ordinance provided that they shall be conducted at least semimonthly. A special meeting shall be conducted on the first Monday in May following a general election where newly elected Commissioners will take the oath prescribed by the Constitution of the State of Oklahoma. The Commission may be called in special session by the Mayor, or by two of the Commissioners. All meetings of the Commission will be conducted in accordance with the Oklahoma Open Meetings Act.

SECTION VII. Removal of Commissioners: The Commissioners or any of them shall be subject to removal from office in the manner, and for the same cause as provided by the laws of Oklahoma for the removal of county officers, it being the intent hereof to provide cumulative procedure and cause for removal.

In the event of a vacancy in the office of the Mayor, the Mayor Pro Tem shall serve as Mayor, with all of the powers and duties vested in the Mayor until such vacancy is filled as provided for by this Charter.

#### ARTICLE V. City Manager

SECTION I. Appointment: The Commission, as soon as practicable after its members qualify, and it is duly organized, shall, by a majority vote, appoint a City Manager. He shall be chosen by the Commission solely upon the basis of his executive and administrative qualifications. He shall be appointed for an indefinite period, and shall be removed at the pleasure of the

Commission, by a majority vote thereof. The City Manager shall hold office until his successor shall be appointed and shall qualify, and thereafter whenever vacancy shall occur in said office the same shall be filled by appointment of the Commission. The City Manager, before taking his office shall qualify, as provided in this Charter.

SECTION II. Powers and Duties: The City Manager shall be the administrative head of the municipality and its chief executive officer, under the direction and supervision of the Commission. He shall have the special powers and duties herein numerated, and all shall be directly responsible to the Commission for the proper administration and execution thereof, to-wit:

A) To see that all laws and ordinances governing the City are enforced.

B) Except as to persons appointed by the City Commission or elected pursuant to this Charter, to appoint, all directors or heads of departments, all subordinate officers and employees in such departments, all police officers, and when needed, a City Engineer, and shall have power to remove said officers or employees for the good of the service. Such appointments shall be made upon the basis of merit and fitness alone, including proper subordination. Provided, that preference shall be given to home labor when same is available.

C) To exercise management control and supervision over all departments of City government and its employees, and to exercise all other administrative and executive functions, except as otherwise in this Charter provided.

D) To supervise and manage all public work amid improvements of the City, and the repair and maintenance thereof. To manage and control all public utilities of the City, including waterworks, electric light, and power plants, pavements, libraries, cemeteries, public service corporations operating under a City Franchise, and such other public utilities as are, or may hereafter be established and not herein provided for. He shall have general charge of the cleaning, sprinkling, lighting, improving, paving, opening, grading, repairing of the streets, sidewalks, sewers, bridges, crossings, and public grounds within the City limits and without except as otherwise herein provided.

E) To enforce all ordinances relating to the City affairs, and

have general supervision with reference to health, peace, safety, fire department and sanitation. He shall be custodian of the City Hall and City Prisons, except as otherwise here provided.

F) To recommend, to the Commission, for adoption, such measures as he may deem necessary and expedient, and is to keep the Commission fully advised as to the financial condition of the City.

G) To make a monthly report to the Commission, and to attend all meetings of the same, with the right to take part in the discussion but having no vote.

H) To submit to the Commission at each meeting thereof an order of business, covering his recommendations and to create such departments for the more efficient and economical administration of the affairs of the City, as to him shall seem necessary and expedient, with the approval of the Commission.

I) To see that all financial rights and provisions are justly enforced; to prepare and submit to the Commission an annual budget, as by this Charter required.

SECTION III. Purchasing Agent: The City Manager shall be the purchasing agent of the City. The City Commission shall establish by City ordinance the limits of the Purchasing authority that can be exercised by the City Manager without prior approval of the Commission.

#### ARTICLE VI. City Treasurer

SECTION I. Qualifications: No person shall be elected as City Treasurer who is not a qualified elector of the City at the time of his election. He shall be elected for a term of four years beginning in 2001 and shall hold office until his successor is elected and qualified, unless sooner removed as provided in the Charter. His other qualifications must be the same as a Commissioner, and he may be removed from office the same as a Commissioner as herein provided. The first City Treasurer elected under this Charter shall hold office until the first Monday in May 1923, and until his successor is elected and qualified.

SECTION II. Duties: The City Treasurer shall have the custody

of the funds of the City, and shall pay out the same only upon the order of the Commission, attested by the City Clerk and signed by the Mayor. He shall, under the direction of the Commission, invest the funds of the City, only in such securities as are provided by the Constitution and the laws of the State of Oklahoma for the investment of school funds of the State, and uninvested funds shall be deposited in the City depository, or depositories of the City.

SECTION III. Deposit of Money: The City depository or depositories shall be the bank, or banks of the City which shall make the highest and best bids therefor. Said bids shall be competitive and sealed, and shall stipulate a contract for the amount of interest to be paid on daily balances of said City by said bank, or banks; provided, that the interest on such daily balances shall not be less than 3% per annum, and the Commission shall determine which are the best bids and shall name the said depository or depositories, so making the best competitive bid, or bids.

SECTION IV. Depository: The City depository shall secure the City for all deposits by giving good and sufficient bond with approved security. Said bond to equal the sum of the probable maximum deposits of the City at one time with said depository, and a new bond may be required by the Commission at any time when the existing bond or bonds shall be deemed insufficient; provided, that the Commission shall have the power to take from such depository in lieu of such bond, any outstanding bonds or warrants of the City of Cherokee, properly assigned, to be held by the City Treasurer as collateral security, and to the extent of the par value of such bonds or warrants the said depository shall be released from the above surety bond.

#### ARTICLE VII. City Clerk

SECTION I--Qualifications: The City Commission shall appoint for an indefinite period of time, a qualified person as City Clerk.

SECTION II. Powers and Duties: He shall have all the powers and duties now provided by law or ordinance, except as in this Charter provided. He shall be Clerk of the Commission. He shall have the custody of, and be responsible for all books, papers, maps and records belonging to the City, not in actual use by other officers or by special provisions, committed to their custody, otherwise provided for. He shall attend all meetings of

the Commission, and keep a record of the proceedings of the same and shall sign and attest all ordinances, resolutions, or other acts of the Commissions. He shall keep the books properly indexed and open to the public inspection when not in actual use. He shall keep separate books in which shall be kept all ordinances, resolutions, and other record proceeding of the Commission. He shall countersign all warrants for the payment of moneys drawn on the City Treasurer, and shall issue receipts for all moneys or other things of value coming into his office. He shall certify to the correctness of all reports made public by the Commission, and shall be custodian of the City seal. He shall be the chief accountant officer of the City, except as otherwise, herein provided, and shall prepare such financial statements and reports of the financial condition of the City as may be required by the Commission, or by ordinance. He shall deposit, daily, with the City Treasurer, all money collected by him, for whatever source derived, taking receipt therefor. He shall have charge of the collection of all special taxes, licenses, fees and revenues of the City, from whatever source; and such other duties as maybe required of him by the Commission or this Charter.

#### ARTICLE VIII. Municipal Court

SECTION I. Powers and Duties: The Police Court of the City of Cherokee, as provided by the Constitution and the laws of the State of Oklahoma, is hereby created. The Commission shall appoint a Judge of said Court, with the official title of Municipal Judge, who shall hold office at the pleasure of the Commission. The said Commission shall, by ordinance, fix his powers and duties, the same to be in accordance with the laws of the State of Oklahoma.

SECTION II. Compensation: The compensation of said Municipal Judge shall be as in this Charter provided. All moneys collected by him as such Municipal Judge, in all proceedings before him, shall be turned over to the City Clerk.

#### ARTICLE IX. City Attorney

SECTION I. Qualifications: The office of City Attorney is hereby created, in accordance with the laws of the State of Oklahoma. The Commission shall appoint a City Attorney, who

shall be duly admitted to the practice of law by the State of Oklahoma, and be actively engaged in his profession.

SECTION II. Duties: It shall be his duty to advise the Commission, and each member thereof and the City Manager, upon all questions coming before said Commission, or the City Manager, and shall give opinions, in writing, when requested, and shall represent the City as counsel in all litigations, in all courts, wherein the City is a party or is interested, as may be required by the Commission.

#### ARTICLE X. Ordinances

SECTION 1. Caption: The style of all ordinances shall be "Be It Ordained by the Commissioners of the City of Cherokee," but such caption may be omitted when said ordinances are revised and digested under the order of the Commission, or when published in book form.

SECTION II. Contents: Every ordinance adopted by the Commission shall embrace but one subject which shall be clearly expressed in its title. No repealed ordinance shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended or conferred shall be re-enacted, and published at length; provided that if any subject be embraced in any ordinance contrary to the provisions of this section, such ordinance shall be void only as to such part of the ordinance as may not be expressed in the title thereof/

SECTION III. When Effective: All ordinances passed by time Commission, except emergency ordinances and ordinances for the bare appropriations of money shall take effect and become valid at the end of thirty days from the date of passage of such ordinance. All ordinances shall be published in a weekly newspaper, published, and of general circulation in the City of Cherokee, such publication to be within ten days from the passage of the ordinance, except as otherwise provided by the constitution and the laws of the State of Oklahoma.

SECTION IV. When Adopted: No ordinance shall be adopted on the day of its introduction before the Commission, but all ordinances, after being introduced, shall lay over for at least one week before finally voted upon and adopted. But this provision shall not apply to emergency ordinances, or ordinances

for the bare appropriation of money.

SECTION V. Emergency Ordinances: This Commission, by a vote of four members, may pass an emergency ordinance, when the public peace, the public health, or the public safety of the City or the inhabitants thereof, shall, in the judgment of the Commission, demand it. Every emergency ordinance must, after the title, contain the words "Emergency Ordinance," as part of the caption, and every such ordinance shall, in a separate section, briefly state the facts, or the cause affecting the public peace, public health, or public safety, and demanding the passage of the emergency ordinance. All emergency ordinances shall take effect at once, upon their passage.

SECTION VI. Enrollment: Every ordinance passed by the Commission shall be enrolled by the City Clerk within the next succeeding ten days, or as soon thereafter as practicable. The enrolled copy shall be carefully compared with the ordinance and amendments, if any, by the Mayor, who shall endorse on the enrolled copy the words "Correctly Enrolled," with the date thereof, and subscribe his name thereto. The failure of the Mayor to make the said endorsement shall, in no event cause the ordinance to be vitiated.

SECTION VII. Ordinances as Evidence: All printed ordinances or codes of ordinances published by authority of the Commission, shall, in all judicial proceedings, in all courts, be admitted as evidence with the same effect and force as would the original ordinance, and in such proceedings it shall not be necessary to plead the entire ordinance or section, but only such parts thereof as are offered in evidence.

SECTION VIII. Initiative and Referendum: All the rights, powers, privileges and authority with the reference to ordinances, resolutions amid legislation given by this Charter to the Commission, are subject amid subordinate to the rights, powers, privileges and authority of the people secured by and reserved to them in the initiative and referendum provisions now or hereafter in force in the Constitution and the laws of the State of Oklahoma.

#### ARTICLE XI. Recall

SECTION I. Who Recalled: The holding of an elective office either by election or appointment to fill a vacancy, may be

removed at any time after six months from the date of his accession to said office, by the electors qualified to vote for a successor to such incumbent, in the following manner:

SECTION II. How Recalled: When a petition demanding the election of a successor of the person sought to be removed, containing a general statement of the grounds for which the removal is sought, and signed by a number of the qualified voters of the City equal to, or greater than 35 percent of the total vote cast for Mayor at the last preceding general municipal election, shall be filed with the City Clerk, he shall within ten days after such filing, examine and ascertain if said petition be in due form, and signed by the required number of qualified voters, and attach to said petition his certificate showing the result and conclusion of his examination, If the petition be found to be sufficient, the City Clerk shall immediately submit the same to the Commission.

SECTION III. Election Called: Upon the submission of a recall petition to the Commission, it shall immediately order a special election, and the date for holding the same, which shall not be less than 20 days, nor more than 30 days from the date of the submission of the petition to the Commission. If the recall petition asks for the recall of two or more of the Commissioners, then the City Clerk shall call the election.

SECTION IV. Results of Election: The Commission shall cause necessary notice to be published, and make all arrangements for holding such election, and the same shall be conducted, held and the results thereof declared in all respects as any other City election, amid the candidate receiving the highest number of votes cast at such election shall be declared elected to such office, and shall, immediately upon his qualification therefor, enter upon the discharge of the duties thereof. The person sought to be removed may be a candidate to succeed himself, and unless he requests, in writing, otherwise, the City Clerk shall place his name upon the official ballot without nomination. In such election if some candidate other than the person sought to be removed, is elected, the incumbent shall thereupon be deemed removed from office upon qualification of his successor, and should the person elected, fail to qualify within ten days, after being notified of his election, the office shall be deemed vacant. If the incumbent be a candidate at such election and shall be elected to such office, he shall continue therein



without again qualifying therefor.

ARTICLE XII. Revenue and Taxation

SECTION 1. System of Collecting: Except as otherwise provided by the general revenue purposes, as provided by the Constitution and the laws of the State of Oklahoma on all real and personal property in said City, not exempt by law from taxation. Provided that the City may become indebted in a large amount for the purpose of purchasing or construction of public buildings or public utilities or repairing the same as provided by the Constitution and the laws of the State of Oklahoma.

SECTION II. Taxation: The City shall have power and is hereby authorized, annually, to levy and collect taxes for general revenue purpose, as provided by the Constitution and the laws of the State of Oklahoma on all real and personal property in said City, not exempt by law from taxation. Provided that the City may become indebted in a larger amount for the purpose of purchasing or construction of public buildings or public utilities or repairing the same as provided by the Constitution and the laws of the State of Oklahoma.

SECTION III. Budget: On or before the last Tuesday in June of each year, or at such other time as the Commission may, by ordinance require the City Manager shall submit in writing to the Commission an annual budget for the ensuing fiscal year, giving detailed estimates of the needs and requirements of the several departments, and other divisions of the City government, according to a classification as nearly uniform as possible, and the amount required for the proper conduct of the various departments and divisions of the City government for the ensuing fiscal year; said budget shall present the following information:

A) An itemized statement of the appropriations recommended by the City Manager for current expenses and for permanent improvements for each department, and each division thereof, for the ensuing fiscal year, with comparative statements in parallel columns of the appropriations and expenditures for the current year, and the increases or decreases in the appropriations recommended.

B) An itemized statement of the taxes required, and of the estimated revenues of the City from other sources, for the

ensuing fiscal year, with a comparative statement in parallel columns of the taxes amid other revenues for the current year, and of the increases or decreases estimated or proposed;

C) A statement of the amount of revenue needed to create a sinking fund to be used: 1<sup>st</sup>) For the payment of interest coupons as they fall due. 2<sup>nd</sup>) For the payment of bonds as they fall due. 3<sup>rd</sup>) For the payment of such parts of judgments as the City may by law, be required to pay:

D) A statement of the financial condition for the City, and such other information as may be required by the Commission.

SECTION IV. Preparing Estimate: The Commission, after determining the amount necessary to maintain the City government for the ensuing fiscal year, shall at such time and in such manner as provided by law, and after having published the same as required by law, certify to the County Excise Board a Financial Statement and Estimate showing the amounts necessary to be raised by taxation for the several funds and the amounts required in each.

SECTION V. Exemption From Taxation: The Commission may, when authorized by a majority vote of the qualified voters of the City, exempt from municipal taxation, for a period of not to exceed five years, new manufacturing establishments and public utilities hereafter locating in the City, as an inducement to locate in the City.

#### ARTICLE XIII. Public Utilities and Franchises

SECTION I. Franchises: No grant, extension or renewal of any franchise, or other use of streets, alleys, or other public grounds of the City, shall divest the same of its control and regulation of such use and enjoyment. Nor shall the power to regulate the charges for public services be surrendered, or any exclusive franchise ever be granted.

SECTION II. Powers of Commission: The Commission shall be vested with the power of adopting all laws and ordinances not inconsistent with the Constitution and laws of the State of Oklahoma for the taxation, regulation and control of all public service and public utility corporations now, or hereafter existing or operating, in whole or in part, within the City limits.

SECTION III. Power to Tax: All public service and utility corporations now, or hereafter existing within the City, whether in whole or in part, shall be subject to the levy, collection and payment of all such taxes as are now, or as hereafter may be authorized by the Constitution and the law of the State of Oklahoma, and by this Charter.

SECTION IV. Grants and Renewals: All grants and renewals of franchises and privileges shall reserve to the City the right to terminate the same and to purchase all the property of the utility, at such prices as may be agreed upon between the owner and the City, and in the event of disagreement the same may, at the option of the City, be submitted to arbitration under the laws of the State; or, in the event no arbitration agreement can be reached, then the City may obtain such property by condemnation under the eminent domain laws of the State.

SECTION V. Purchase Price: No franchise making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

SECTION VI. People to Approve: The Commission shall not have the right to grant, extend or renew a franchise without the approval of a majority vote of the qualified electors residing within the corporate limits of the City, who shall vote thereon at a general or special election, as provided by the Constitution and the laws of the State of Oklahoma. Provided, that no franchise shall be granted for a longer term than twenty-five years.

The qualified electors of said City may by a petition signed by a number of electors equal to 25 percent of the total number of votes cast for Mayor at the next preceding general election of said City, demand that a franchise be granted, extended or renewed. Said petition shall be filed with the Mayor of the City. The Mayor shall, within ten days thereafter, call a special election at which shall be submitted the question of whether or not such franchise shall be granted extended, or renewed, and if, at said election, a majority of said electors voting thereon shall vote for the grant, extension, or renewal of such franchise, the same shall be granted by the Commission at their next succeeding, regular election.

SECTION VII. City Rights: Said City shall have the right to engage in any business or enterprise which maybe engaged in by a person, firm or corporation by virtue of a franchise from said City.

#### ARTICLE XIV. Municipally Owned Utilities

SECTION I--Acquisition of Property: Said City shall have power within its territorial limits and within fifteen miles from said limits, to construct, purchase, acquire, lease, improve, add to, maintain and conduct and operate, in whole or in part, waterworks, light plants, telephone systems, power plants, transportation systems, heating plants, incinerating plants, cemeteries, public hall, public library, and other public utilities, or works, or ways, local in use, and everything required therefor for the use of said City and the inhabitants thereof And any such system, plants, works or ways, or any contracts in relation or connection therewith that may exist and which said City may desire to purchase in whole or in part, by said City, which may enforce such purchase by proceedings at law, or in equity by right of eminent domain, and said City shall have the power to issue bonds upon the vote of the electors at any municipal election, general or special, in any amount necessary to carry out any of said powers or purposes, except as limited by the Constitution and the laws of the State of Oklahoma.

SECTION II. Basis of Charge: In time operation of any public utility or business owned by the City, the rate of toll or charges for the commodity and service furnished shall be based upon the actual cost of operation of such commodity and service furnished including the necessary cost or repairs for the same.

SECTION III. Accounts of Utilities: Accounts shall be kept for each public utility owned or operated by the City, distinct from the other accounts and in such manner as to show the true and complete financial result of such City ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. Such accounts shall show the actual cost to the City of each public utility owned; the cost of all extensions, additions and improvements; all expenses of maintenance and renewals; the amounts set aside for sinking fluid purposes and, in case of City operation, all operating expenses of every description. The accounts shall show, as nearly as possible the

value of any service furnished to, or rendered by such public utility, by or to any other city or governmental department. Due accounts shall also show a proper allowance for depreciation, insurance and interest on the investment, and estimates of the amount of taxes that would be chargeable against the property if privately owned. The Commission shall, annually, cause to be made and printed for public distribution, a report showing the financial result of such City ownership and operation, which report shall give the information specified in this section and such other information as the Commission shall deem expedient.

#### ARTICLE XV. Public Health & Sanitation

SECTION I. Sewers: The Commission shall have power, by ordinance, to provide for, construct, and maintain a general sewer and drainage system, which may be divided into public, district and private sewers and drains as necessity may demand, in the same manner as is provided by the Constitution and the laws of the State of Oklahoma for municipal sewers in cities of the first class, All provisions of the Constitution and the laws of the State of Oklahoma relating to municipal sewers for cities of the first class being adopted in full by this Charter. Provided, that the Commission as herein provided shall have the powers and perform the duties delegated to the Mayor and City Council of cities of the first class in the construction of municipal sewers, as provided by the Constitution and the laws of the State of Oklahoma.

SECTION II. Commodities: The Commission shall have power by ordinance, to regulate the sale of fresh meat, fish, milk, fruits, vegetables and other provisions; and to regulate the inspection thereof; and of animals being slaughtered within the City limits; to provide for the removal of slops, filth, waste substance, the cause producing noisome smells, nuisances, and all refuse matter, and provide punishment for the violation of any ordinance regulating the same.

SECTION III. Board of Health: The Commission shall have power to appoint a Board of Health for the City, and prescribe, by ordinance, the duties of the said Board, one of which shall be the establishing of quarantine regulations. Said Board shall consist of two physicians and one business man of the said City.

#### ARTICLE XVI. Public Safety

SECTION I. Fire Departments: The Commission shall have power to provide, by ordinance, means for the protection against, and the extinguishing of fires; provide for the support of a Fire Department, for the purpose of guarding against the calamity of fire; prescribe fire limits, and regulate and prohibit the erection or building, placing or repairing of wooden buildings within such fire limits as shall be designate the kind and character of material to be used in the erection of new buildings, and such other matters as maybe for the protection of the City against fire.

SECTION II. Explosives: The Commission shall regulate, by ordinance, the storage of oils, gasoline, powder, and other explosives, and all commodities of an inflammable nature.

SECTION III. Fire Equipment: The City shall have power to procure necessary fire engines, hooks, ladders, buckets, and other apparatus, and organize fire companies and prescribe rules for the government thereof; regulate the construction of doors to public places; provide for fire escapes; and such other precautionary regulations maybe prescribed, as may from time to time seem necessary for the protection of the City against fire.

SECTION IV. Ashes and Fires: The Commission may, by ordinance regulate the depositing of ashes in unsafe places; cause the removal of trash from public and private premises; regulate the starting of fires in public places; and regulate the starting of fires on private property for the purpose of burning trash and the burning off of yards.

SECTION V. Poles and Wires: To control the erection of poles and wires for public or municipal utilities; and regulate the obstruction of the streets and alleys when improvements are being made thereon; and provide for the necessary warnings at night, when a ditch or excavation is left open.

SECTION VI. Punishment: The Commission shall have power to prescribe, by ordinance, proper punishment for the violation of any of the provision of the article.

#### ARTICLE XVII. Public Improvements

The Commission shall have the power to order the construction of

sidewalks, and crosswalks and to establish and change the grade of any street, avenue, alley or public place within said City, and the power to permanently improve the same by paving, macadamizing, curbing, guttering and draining, in the same manner as is provided by the Constitution and the laws of the State of Oklahoma for Public Improvements in cities of the first class. All of the provisions of the Constitution and the laws of the State of Oklahoma relating to Public Improvements for cities of the first class are adopted in full by this Charter. Provided, that the Commission as herein provided, shall have the powers and perform the duties delegated to the Mayor and City Council of cities of the first class, in the making of Public Improvements, as provided by the Constitution and the laws of the State of Oklahoma.

#### ARTICLE XVIII. Amendments and Repeals

SECTION I. Amendments: This Charter may be amended, at any time, by an initiative petition as provided by the Constitution and the laws of the State of Oklahoma, at an election at which the proposed amendment is submitted to a vote of the qualified electors of the City, by a majority of such electors, voting at such election on such proposed amendment. The Commission may propose and submit any amendment to the Charter to a vote of the qualified electors of the City at any general or special election. At such election the general laws of the State of Oklahoma shall govern. If ratified by a majority of the qualified electors voting thereon it shall be submitted to the Governor of the State of Oklahoma, and upon his approval, the amendment shall become effective.

SECTION II. Repeal of Charter: The Charter may be repealed, and the City of Cherokee thereupon become subject to the general laws of the State of Oklahoma the same as though no Charter had ever been adopted, at an election called and held for that purpose pursuant to a petition for the holding of such an election. Such petition shall be signed by qualified voters, representing 40% of the total vote cast for Mayor at the regular election next preceding the filing of the petition. Upon the presentation of such petition to the Commission, if it be found that the petition is regular, then the Commission shall within ten days call a special election to be held within twenty days after such call, at which the question of repeal shall be voted upon by the electors of the City. If a majority of the electors voting at said election shall vote in favor of the repeal the

Charter shall, upon the approval of the Governor of the State of Oklahoma, stand repealed. If the Charter be repealed the officers of the City shall continue in office until officers are elected and qualified as provided by the laws of the State of Oklahoma for cities of the first class, whereupon the offices under this Charter shall be abolished. At the election held on such repeal, an election of officers as provided by law for cities of the first class, shall be held. If the Charter be repealed and new officers elected they shall immediately qualify and assume the duties of their respective offices, and shall hold the same until the next general election for cities of the first class as provided by the laws of the State of Oklahoma. Provided, this Charter shall not be repealed before the year 1925. And provided, further, that certain portions of this Charter may be repealed as provided above for the repeal as provided above for the repeal of the whole Charter, and without the repeal of the whole Charter. Said portion or portions repealed to be approved by the Governor of the State of Oklahoma.

#### ARTICLE IX. Elections

SECTION I. Repealed by amendment adopted August 25, 1998. Approved by the Governor September 8, 1998.

SECTION II. General Elections: A general election shall be held in said City on the first Tuesday in April 1999, and each two years thereafter; at each biennial election, beginning in 1999, half of the Commissioners will be elected, and shall hold office for the term herein provided, and until their, or his successors or successor are elected and qualified, except as otherwise provided in this Charter. The regular term of elective officers shall begin on the first Monday of May following the general election in which they were elected.

SECTION III. Special for this Amendment to Charter: In the event these Amendments to the Charter are adopted, all candidates for the office of Commissioner may file as independent candidates, and no primary election shall be held; but this applies only to the election to be held in 1953.

SECTION IV. General Election Laws: In all general and special elections held in the City of Cherokee, the General Election laws of the State of Oklahoma, applicable to municipal elections for cities of the first class, are hereby adopted, and put in



full force and effect.

ARTICLE XX. Miscellaneous

SECTION I. Public Parks: The Commission shall have power to appoint a Board of Park Commissioners, consisting of three electors, who shall serve, without compensation, and shall have such powers and duties as are now provided by law, or are, or may hereafter be provided by ordinance. The City Manager, shall be an ex-officio member of said Board, but shall have no vote. His advice and services shall be at the disposal of the Board in planning and executing their work.

SECTION II. Claims Against City: All claims against the City must be filed with the City Clerk, in writing, with a frill amount of all items thereof, and must be subscribed by the claimant, his agent or attorney, who upon oath, shall declare that the same is correct, just, due and unpaid; and no claim or demand shall be allowed, or suit filed thereon unless so prepared and filed. All claims shall be approved by the Commission.

SECTION III. City Hall: The Commission shall have power to have erected, or to purchase, a building for the use of the City, and for purpose of housing the Fire Equipment and other property belonging to the City, and for the general purposes of the City including a public library room; and shall have power to levy a special tax therefor. Provided that the question of purchasing or erecting a building, or the levying of a special tax therefor shall be submitted to a vote of the legal voters of the City, as provided by the Constitution and the laws of the State of Oklahoma.

SECTION IV. Library: The Commission shall have power to establish and maintain a Public Library in said City in such manner as is provided by the laws of the State of Oklahoma.

SECTION V. Individual Liability: Every officer who shall approve, allow or pay any demand on the treasury of the City not authorized by law, ordinance, or this Charter, shall be liable to the City, individually, and upon his official bond for the amount so allowed.

SECTION VI. Account Audited: At the end of each fiscal year, the same being June 30<sup>th</sup> of each year, and at such other times as it may be deemed necessary, the Commission shall cause a full

and complete examination of all the books and accounts of the City, including the accounts of municipally owned utilities to be made by a competent, certified accountant, and shall publish the results of such examination in some newspaper of general circulation in the City. Violation of this clause by the Commission shall subject the members thereof to be removed from office as provided by law.

SECTION VII. Cemeteries: The City shall have power to purchase land for, own and control a cemetery, by a majority vote of the electors, voting at an election, authorizing the same. The said cemetery shall be outside of the city limits. The Commission shall have power to survey, plat and improve the same in accordance with the laws of Oklahoma.

SECTION VIII. Saving Clause: If any section or part of a section of this Charter is determined by a court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except in so far as such other section or part of a section is dependent for its operation upon the section so held to be invalid.

SECTION IX. State Laws Effective: All questions arising in the administration of the City affairs, and not provided for in this Charter, shall be governed by the Constitution and the laws of the State of Oklahoma. The Commission as herein provided shall have all of the powers and perform all the duties delegated to the Mayor and City Council of cities of the first class, by the Constitution and the laws of the State of Oklahoma.

#### ARTICLE XXI. Cherokee Electric System Sale Fund

There shall be established the Cherokee Electrical System Sale Fund with the proceeds from the sale of the City of Cherokee electrical generation and distribution system to Alfalfa Electric Cooperative, Inc., and Western Farmers Electric Cooperative, Inc., which shall be in the principal sum of \$1,730,000.00. The principal sum shall not be spent for any reason by the City Commission without such expenditure being first approved by a majority vote of the qualified electors of the City at a duly called and administered election held for that purpose. The interest earned on the principal sum shall be transferred to the general fund of the City at appropriate times for use by the Commissioners in the operations of the City in

any manner which it is legal and proper to use moneys from the general fund. The City Commission may from time to time add to the principal sum set forth above, but doing so places such additional principal sums under the prohibition of use without election set forth above.

Subject to and in strict compliance with the following procedures, the voters of the City hereby permit an amount not greater than \$50,000.00 per calendar year of the principal sum derived from the sale of the electric generation and distribution system to Alfalfa Electric Cooperative, Inc., and Western Farmers Electric Cooperative, Inc. ("local match funding"), to be used as local funding to match state and/or federal grants to construct, repair and replace necessary street, water, sewer, drainage, airport, fire, economic development and park capital improvements. If any local match funding is desired in any successive calendar year, the Mayor of the City shall call a public hearing to receive comments from the public, including but not limited to receiving comments for additional and/or different projects for the local match funding. The date, time, location and purpose of such public hearing shall be published for two (2) consecutive weeks in a newspaper of general circulation in the community prior to the hearing. After the completion of the public hearing, any desired appropriation and use of local matching funds shall be submitted by the Mayor and City Commissioners to the Cherokee Watch Dog Committee for their approval or rejection.

There is hereby created a Cherokee Watch Dog Committee which shall be composed of five (5) members. The members shall serve without compensation. Of the members appointed:

One (1) member shall be nominated by the Cherokee Volunteer Fire Department, and shall be appointed by majority vote of the Mayor and City Commissioners. The initial member shall be appointed for an one (1) year term, from and after the date of appointment, and until such member's successor is appointed and qualified;

One (1) member shall be nominated by the Cherokee Rotary Club, and shall be appointed by majority vote of the Mayor and City Commissioners. The initial member shall be appointed for a two (2) year term, from and after the date of appointment, and until such member's successor is appointed and qualified;

One (1) member shall be nominated by the Cherokee Lion's Club and shall be appointed by majority vote of the Mayor and City Commissioners. The initial member shall be appointed for a three (3) year term, from and after the date of appointment, and until such member's successor is appointed and qualified;

One (1) member shall be appointed by the Mayor, and confirmed by the Cherokee City Commissioners. The initial member shall be appointed for a four (4) year term, from and after the date of appointment, and until such member's successor is appointed and qualified; and

One (1) member shall be the person elected or appointed as the Treasurer of the City of Cherokee, and shall continue to serve as such a member until the Treasurer's successor is elected or appointed and qualified.

After the terms of the initial members have expired, successor member terms shall be for four (4) years.

In the event that any organization given the power to nominate, fails to make a nomination within sixty (60) days of being given written notice by the City that a nomination is due, the Mayor and City Commissioners may appoint such member. In the event that any organization given the power to nominate ceases to exist, the Mayor and City Commissioners shall call an election to amend this provision of the charter with a substitute nominating organization.

All members of the Cherokee Watch Dog Committee shall be registered voters and residents of the City of Cherokee.

All appropriation and use of local matching funds must be approved by the Cherokee Watch Dog Committee. The Cherokee Watch Dog Committee shall examine each request for appropriation and use of local matching funds and must either approve or reject such request. The Cherokee Watch Dog Committee shall be considered a public body and shall follow the Oklahoma Open Records Act and the Oklahoma Open Meeting Act, or as such Acts may be hereinafter amended. A majority vote of all the members of the Cherokee Watch Dog Committee shall be required for approval of the request. No appropriation and use of local matching funds shall be made unless first approved by a majority vote of all the members of the Waynoka Watch Dog Committee, with

subsequent approval by a majority of the Mayor and City Commissioners.

If any such appropriation and use of the local matching funds is approved as hereinabove provided, such local matching shall be placed into a limited purpose account to be known as the "Capital Improvement Local Matching Account" to be accumulated, earmarked and expended only for the purposes listed hereinabove, and specifically only for the purpose authorized by the Cherokee Watch Dog Committee. No local funding match shall exceed fifty percent (50%) of the state and/or federal grants provided.