

TITLE III: ADMINISTRATION

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CHAPTER 30: BOARD OF TRUSTEES

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§ 30.01 GENERAL POWERS.

(A) Pursuant to the provisions of 11 O.S. § 12-101, the town shall have all the powers, functions, rights, privileges, franchises, and immunities granted, or which may be granted to towns governed by the statutory town Board of Trustees form of government. These powers shall be exercised as provided by law applicable to towns under the Board of Trustees form of government, or, if the manner is not prescribed, then in such manner as the Board of Trustees may prescribe.

(B) The powers, rights, and authorities of the town, including the determination of matters of policy, shall be vested in and exercised by the Board of Trustees.
(Prior Code, § 2-101)

§ 30.02 TERMS.

(A) The Board of Trustees shall consist of five members elected at large without regard to their place of residence in the town.

(B) The term of office for a Trustee shall be four years beginning at 12:00 p.m. on the second Monday following the general municipal election. The Trustee shall serve until his or her successor is elected and qualified.

(C) The resolution of the Board of Trustees calling for a general or special election to fill the office of Trustee shall state the number of four-year terms and the number of unexpired terms, if any, to be filled.

(Prior Code, § 2-102) (Ord. 11485, passed 1-14-1985)

Statutory reference:

Related provisions, see 11 O.S. §§ 8-102, 8-109, 12-102, 12-103, 12-103.1, and 16-205

§ 30.03 MEETINGS.

(A) (1) The Town Board shall meet regularly on the second Tuesday of each month at 6:00 p.m. When the day for a meeting falls upon a day that is a legal holiday in the state, the meeting shall be held on the next succeeding day that is not a holiday. Special meetings may be called by the Mayor or any two Trustees. A majority of all the members of the Board shall constitute a quorum to do business, but a smaller number may adjourn from day to day.

(2) The Public Works Authority Board shall meet regularly on the second Tuesday of each month at 5:45 p.m.

(B) Every meeting of the Board of Trustees shall be held in the Town Hall unless, in case of an emergency, the Mayor designates another place in the town for the holding of a special meeting. Any adjourned meeting may be held at any other place within the town designated by the Board.

(Prior Code, § 2-103) (Ord. 2010-02, passed 8-10-2010; Ord. 2012-02, passed 2-14-2012; Ord. 2012-03, passed 2-14-2012; Res. 2024-01, passed 2-13-2024; Res. 2024-01, passed 2-13-2024)

Statutory reference:

Related provisions, see 11 O.S. § 12-107 and 25 O.S. §§ 301 through 314

§ 30.04 RULES OF ORDER AND PROCEDURE.

(A) The Board may determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the Board may prescribe. Whenever a Trustee is absent from more than one-half of all meetings of the Board, regular and special, held within any period of four consecutive months, he or she shall thereupon cease to hold office.

(B) The order of business for each meeting of the Board may be as posted on the agenda for the meeting.

(C) The following rules of procedure shall apply to any regular or special meeting of the Board unless two Trustees agree to waive the rule or rules:

(1) At the request of the Mayor or any Board member, all motions shall be reduced to writing;

(2) A motion to reconsider any of the proceedings of the Board shall not be entertained unless it be made by a member who previously voted in the majority;

(3) No motion shall be debated or put until it be seconded and stated by the Mayor. It is then, and not until then, in possession of the Board and cannot be withdrawn but by leave of the Board;

(4) (a) A motion to adjourn shall be in order at any time, except as follows:

1. When repeated without intervening business or discussion;
2. When made as an interruption of a member while speaking;
3. When the previous question has been ordered; or
4. While a vote is being taken.

(b) A motion to adjourn is debatable only as to the time to which the meeting is adjourned.

(5) (a) When a question is under debate, no motion shall be received but:

1. To adjourn;
2. To lay on the table;
3. For the previous question;
4. To postpone to a day certain;
5. To commit;
6. To amend; or
7. To postpone indefinitely.

(b) Several motions shall have precedence in the order they stand arranged.

(6) When a proper motion is made, but information is wanted, the motion is to postpone to a day certain;

(7) (a) Matters claiming present attention for which it is desired to reserve for more suitable occasion, the order is a motion to lay on the table; the matter may then be called for at any time.

(b) If the proposition may need further consideration at the hands of a committee, the motion is to refer to a committee, but if it need but a few and simple amendments, the Board shall proceed to consider and amend at once;

(8) On an amendment's being moved, a member who has spoken on the main question may speak again to the amendment;

(9) The question is to be put first on the affirmative and then on the negative side. After the affirmative part of the question has been put, any member who has not spoken before to the question may arise and speak before the negative be put; and

(10) When a question has been moved and seconded and has been put by the presiding officer in the affirmative and negative, it cannot be debated unless under motion for reconsideration.
(Prior Code, § 2-104)

§ 30.05 DUTIES.

The Board of Trustees, by majority vote, may designate various ones of its members or a committee of its members to have supervision of various personnel and activities of the town, such as streets, water systems, and the like, and may give each such Trustee or committee designated an appropriate title. Each such Trustee or committee so designated shall be subordinate to the Board.
(Prior Code, § 2-105)

CHAPTER 31: OFFICIALS AND ORGANIZATIONS

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GOVERNMENT OFFICIALS**§ 31.01 MAYOR.**

(A) The Board of Trustees shall elect from among its members a mayor. The Mayor shall be elected in each odd-numbered year at the first Board of Trustees meeting held after Trustee terms begin, or as soon thereafter as practicable. The Mayor shall serve until his or her successor has been elected and qualified.

(B) (1) The Mayor shall preside at meetings of the Board and shall certify to the correct enrollment of all ordinances and resolutions passed by it. He or she shall be recognized as head of the town government for all ceremonial purposes and shall have such other powers, duties, and functions as may be prescribed by law or ordinance.

(2) The Mayor shall have all the powers, rights, duties, and responsibilities of a Trustee, including the right to vote on questions.

(C) During the absence, disability, or suspension of the Mayor, the Board shall elect from among its members an acting mayor. When a vacancy occurs in the office of the Mayor, the Board shall elect another mayor from among its members to serve for the duration of the unexpired term.

(Prior Code, § 2-201)

Statutory reference:

Election of town mayor, acting mayor, see 11 O.S. §§ 12-101 through 12-105

§ 31.02 TOWN CLERK/TREASURER.

(A) *Office created.* There is hereby created the office of Town Clerk/Treasurer.

(B) *Powers and duties.*

(1) *Generally.* The Town Clerk/Treasurer shall have and exercise all powers and duties assigned to him or her by statute and ordinance and such other authority as may be granted to him or her by the Board of Trustees.

(2) *Duties as Clerk.* As Clerk, the Town Clerk/Treasurer shall:

(a) Keep the journal of proceedings of the Board of Trustees;

(b) Enroll all ordinances and resolutions passed by the Board of Trustees in a book or set of books kept for that purpose;

(c) Have custody of documents, records, and archives as may be provided for by law or by ordinance, and have custody of the town seal; and

(d) Have such other powers, duties, and functions related to the statutory duties of the Clerk as may be prescribed by law or ordinance.

(3) *Duties as Treasurer.* As Treasurer, the Town Clerk/Treasurer shall:

(a) Maintain accounts and books to show where and from what source all monies paid to the town have been derived and to whom and when any monies have been paid;

(b) Deposit daily funds received for the town in depositories the Board of Trustees may designate; and

(c) Have such other powers, duties, and functions related to the statutory duties of the Treasurer as may be prescribed by law or ordinance.

(4) *Additional administrative duties.* The person who serves as Town Clerk/Treasurer may also perform additional administrative duties not specified by state law as an employee of the town. Said additional duties shall be performed by the person serving as the Town Clerk/Treasurer or as otherwise provided by motion or other action of the Board. The person performing additional administrative duties shall perform such duties as may be prescribed by the Board.

(C) *References to Clerk or Treasurer in other town ordinances.* All references in all other ordinances of the town to the Town Clerk or the Deputy Town Clerk, the Town Treasurer or the Deputy Treasurer shall mean and be references to the Town Clerk/Treasurer or the Deputy Town Clerk/Treasurer.

(Ord. 2009-02, passed 5-12-2009; Ord. 2023-01, passed 1-10-2023)

§ 31.03 DEPUTY TOWN CLERK/TREASURER.

There is hereby created the office of Deputy Town Clerk/Treasurer who shall be appointed by the Board of Trustees.

(Ord. 2023-01, passed 1-10-2023)

§ 31.04 TOWN ATTORNEY.

The Board of Trustees may appoint a town attorney or may secure the services of an attorney or attorneys on a contractual basis when needed. The Town Attorney, when and if appointed, shall be the legal adviser of the Board, all officers, departments, and agencies of the town government in matters

relating to their official powers and duties. He or she may represent the town in proceedings in the Courts and perform services incident to his or her position which may be required by law or ordinance. (Prior Code, § 2-304)

§ 31.05 HEALTH OFFICER.

The Board of Trustees may appoint a Town Health Officer. The County Health Officer or any qualified personnel of the State Department of Health may perform the duties and functions of a Town Health Officer if so designated by the town. (Prior Code, § 2-305)

§ 31.06 OTHER PERSONNEL, APPOINTMENTS, REMOVALS.

(A) The Board of Trustees may appoint such other officers and employees as it deems desirable and may determine their compensation by motion or resolution, and may demote, suspend, lay off, or remove all such personnel in compliance with due process and other requirements of law.

(B) (1) An employee or officer who, after a probationary period as set by the Town Board, is laid off, suspended without pay for more than ten days, demoted, or removed may appeal in writing to the Town Board. The appeal must be filed with the Town Clerk/Treasurer for transmittal to the Board within ten days after receipt of the notice of the layoff, suspension, demotion, or removal.

(2) As soon as practicable thereafter, the Board shall conduct a hearing on the appeal, or give an adequate opportunity therefor, and shall report in writing its findings and recommendations and make its final decision in writing regarding the appellant's layoff, suspension, demotion, or removal. If the Board finds that the layoff, suspension, demotion, or removal was made in error, it shall veto the layoff, suspension, demotion, or removal and order the reinstatement of the employee or officer.

(3) Any proceedings of the Board shall be subject to open meeting laws and applicable exceptions provided for executive sessions. Employees or officers on probationary status may be laid off, suspended without pay, demoted, or removed at any time without the written statement, hearings, and procedures required in this section. (Prior Code, § 2-306)

§ 31.07 BONDS.

(A) The Board shall require the Town Clerk/Treasurer and any other officers and employees as it may designate by ordinance or otherwise to give bond for the faithful performance of duties in such amount and form as the Board shall prescribe.

(B) The town shall pay the premiums on such bonds.

(C) The town may require the officer to secure the bond within ten days after his or her election or appointment.

(Prior Code, § 2-307)

Statutory reference:

Related provisions, see 11 O.S. § 8-105

§ 31.08 SALARIES AND COMPENSATION.

(A) The compensation of all elective town officers, including the following, shall be fixed by ordinance:

- (1) The Mayor;
- (2) Each Trustee;
- (3) The Town Clerk; and
- (4) The Town Treasurer.

(Prior Code, § 2-308)

(B) (1) The compensation of all other officers and employees excepting those whose compensation the law requires to be set by ordinance, may be determined by motion or resolution adopted by the Board of Trustees, and may be changed at any time in the same manner.

(2) Except as the law provides otherwise, the Board of Trustees may determine or regulate the number and classes of officers and employees.

(Prior Code, § 2-309)

(C) (1) In no case shall the salary or emoluments of any town officer elected or appointed for a definite term, be changed after his or her election or appointment or during his or her term of office unless by operation of an ordinance passed prior to such election or appointment, such being prohibited by the State Constitution, Art. 23, § 10.

(2) This provision shall not apply to officers chosen for indefinite terms nor to employees.

(Prior Code, § 2-310)

Statutory reference:

Related provisions, see 11 O.S. § 12-113 and Oklahoma Constitution, Art. 23, § 10

§ 31.09 OATHS.

Officers of the town shall take the oath or affirmation of office prescribed by the State Constitution before they enter upon their duties.

(Prior Code, § 2-311)

§ 31.10 CONTINUATION OF TERMS.

Every officer who is elected or appointed for a definite term shall continue to serve thereafter until his or her successor is elected or appointed and qualifies, unless his or her services are sooner terminated by resignation, disqualification, removal, death, abolition of the office, or other legal manner.

(Prior Code, § 2-312)

§ 31.11 APPOINTMENT OF PERSONNEL IN EMERGENCIES.

(A) The Mayor may, in an emergency situation, appoint such other officers and employees as he or she may deem necessary to protect the health, safety, and welfare of the citizens of the town during the existence of the emergency, subject to the approval of the Board of Trustees as soon as a special meeting or regular meeting can reasonably be called or held therefor.

(B) The Board of Trustees may determine the compensation of such emergency employees by motion or resolution and may direct the demotion, layoff, or removal of such personnel at the conclusion of such emergency.

(C) For the purposes of this section, the term **EMERGENCY** shall be defined to mean an unexpected or unforeseen contingency or catastrophic event affecting the health, safety, or welfare of the citizens of the town.

(Prior Code, § 2-313)

§ 31.12 CANDIDATES FOR OFFICE.

(A) *Preregistration of candidates.* Except as otherwise provided, to be eligible for election to any municipal office, a candidate must file a declaration of candidacy with the Town Clerk/Treasurer no later than 5:00 p.m. of the third Friday of March immediately preceding the town meeting at which the town's biennial election is to be held.

(B) *Insufficient number of candidates.* Should the number of eligible candidates be insufficient to fill a municipal office on the date the biennial election is held, the office shall be filled by majority vote

of the Town Board members in office immediately following the biennial election, or in default of which as otherwise provided by law.

(Prior Code, § 2-314) (Ord. 2011-01, passed 2-8-2011)

§ 31.13 WORKPLACE WELLNESS POLICY.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOSTING. The use of municipal facilities or other resources for a function, an event, or an activity. Examples include fairs, community gardens, classes, support groups, sporting or athletic events, concerts, and the like.

INDOOR AREA. Any enclosed area used or visited by municipal employees, regardless of whether work is being performed. **INDOOR AREA** includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, parking garages, municipal vehicles, and any other spaces used or visited by employees, as well as all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of openings such as doors, doorways, open or closed windows, or stairways.

MUNICIPAL PROPERTY. All buildings, indoor areas, and outdoor areas, including but not limited to recreational areas and other property, or portions thereof, owned or operated by the town, including but not limited to vehicles and equipment owned by the municipality.

OUTDOOR AREA. Any area that is not an indoor area, and includes **OUTDOOR RECREATIONAL AREAS**.

SMOKING. The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

SPONSORING. Providing financial or in-kind support of resources and services for programs, classes, farmers markets, or other types of events and activities promoting healthy living.

TOBACCO PRODUCT. Any product that contains tobacco and is intended for human consumption. **TOBACCO PRODUCT** does not include any product approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product.

VAPOR PRODUCT. Any noncombustible product, that may or may not contain nicotine, that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, and that can be used to produce a vapor in a solution or other form. **VAPOR PRODUCT** includes any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar

product or device, and any vapor cartridge or other container of a solution that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic smoking device.

(B) *Wellness program support.* The town commits to creating a workplace environment that is conducive to eating healthy, being physically active, and living tobacco free and vapor free by doing the following:

- (1) Establishing and providing support for a wellness committee to implement the Wellness Policy, to identify and pursue opportunities to improve health, and to monitor the success of the Policy;
- (2) Promoting healthy behaviors and choices through appropriate communications resources, such as pamphlets, brochures, posters, newsletters, webinars, or meetings;
- (3) Establishing wellness programs for employees;
- (4) Expanding wellness programs, resources, and benefits to make them available to family members of employees, as appropriate;
- (5) Conducting ongoing evaluations of wellness policies and programs; and
- (6) Hosting, sponsoring, or promoting health events, such as health fairs, classes, or races.

(C) *Nutritious foods and beverages.* The town commits to making healthy food and beverage options widely available and easily accessible to its employees by doing the following:

- (1) Selling and offering foods and beverages throughout the workplace that follow these guidelines:
 - (a) One hundred percent of foods contain zero grams of trans fat per serving;
 - (b) One hundred percent of snack foods contain no more than 230mg of sodium per serving (excluding refrigerated meals);
 - (c) One hundred percent of individual meal items contain no more than 480mg of sodium per serving;
 - (d) Seventy-five percent of packaged foods contain no more than 200 calories per package, no more than 10% of total calories from saturated fat, and no more than 35% of total calories from sugar (excluding nuts and seeds without added fats, oils, or sweeteners, and fruits or vegetables without added caloric sweeteners);

(e) Seventy-five percent of beverages contain no more than 40 calories per serving (excluding 100% fruit juice and unsweetened milk);

(f) One hundred percent of milk and milk products will be unsweetened and nonfat or lowfat (1%);

(g) One hundred percent of juice will be unsweetened and will contain 100% juice;

(h) One hundred percent of vegetable juice will contain no more than 230mg of sodium per serving; and

(i) One hundred percent of foods are cooked without frying (for example, steaming, grilling, roasting, broiling, baking, poaching, or sauteing).

(2) Promoting good nutrition and healthy eating habits through these activities and services:

(a) Making cool drinking water available throughout the day at no cost;

(b) Providing employees with access to a refrigerator, microwave, and sink with a water faucet;

(c) Encouraging employees to bring healthy foods to special occasions such as events, birthdays, and retirement parties, or celebrating with nonfood items;

(d) Ensuring access to a private space (other than a restroom) that has an electrical outlet, and providing flexible paid or unpaid break times to allow mothers to express breast milk and/or breastfeed;

(e) Providing nutritional information on foods and beverages sold and offered in the workplace;

(f) Identifying healthy food and beverage menu items with signs, symbols, and/or colors;

(g) Offering smaller portion sizes;

(h) Promoting the purchase of healthy foods and beverages through practices such as posting flyers and other communication tools;

(i) Providing nutrition education through activities such as seminars, workshops, classes, meetings, or newsletters; and

(j) Hosting, sponsoring, or promoting a farmers market on or near municipal property that is open to community members.

(D) *Opportunities for physical activity.* The town commits to making physical activity opportunities widely available and easily accessible by doing the following:

(1) Providing employees with at least 30 minutes of physical activity break time in addition to their regularly scheduled meal breaks;

(2) Incorporating ten-minute physical activity breaks into every hour of sedentary meetings, trainings, and other workplace gatherings;

(3) Promoting short activity breaks throughout the workday;

(4) Promoting walking meetings;

(5) Providing flexible work arrangements to accommodate physical activity breaks;

(6) Promoting stairwell use, if applicable, throughout the workday by making stairs accessible and appealing, and posting motivational signs;

(7) Using posters, pamphlets, and other forms of communication to promote physical activity;

(8) Promoting employee participation in physical activity by creating exercise clubs or groups and sponsoring events or employee sports teams;

(9) Providing an on-site fitness facility;

(10) Providing access to an on-site changing room or locker rooms with a shower;

(11) Providing employees and their families with access to an off-site fitness facility, including but not limited to purchasing corporate memberships as part of employee benefits packages, subsidizing membership expenses, or negotiating a discounted rate;

(12) Providing safe and secure bicycle parking for employees and visitors to municipal workplaces;

(13) Providing information about local resources and facilities such as events, walking trails, community parks, and recreational facilities; and

(14) Promoting physical activity through activities such as seminars, workshops, classes, newsletters, or meetings.

(E) *Tobacco free and vapor free.* The town commits to supporting employees' access to clean air by limiting exposure to secondhand tobacco smoke and secondhand vapor by doing the following:

(1) Supporting existing local and state laws that prohibit smoking and the use of tobacco products and vapor products in indoor areas and on municipal property, through educational materials, requisite signage, and enforcement assistance where applicable;

(2) Enforcing the "Local Tobacco-Free and Vapor-Free Ordinance at Talala;"

(3) Prohibiting employees from smoking or using tobacco products or vapor products in personal vehicles during all hours of employment while such vehicles are on municipal property;

(4) Providing cessation support for employees by doing the following:

(a) Referring employees interested in quitting use of tobacco products and vapor products to the State Tobacco Helpline and other cessation resources, if available;

(b) Promoting the State Tobacco Helpline (1-800-QUIT-NOW or OKHelpline.com) to ensure awareness of the statewide services that are available;

(c) Providing insurance benefits and access to the following types of assistance with no prior authorization or out-of-pocket cost to the employee:

1. Group, individual, and phone counseling:

a. A minimum of four counseling sessions of at least ten minutes each per attempt; and

b. Two quit attempts per year.

2. All 7 FDA-approved cessation aids.

(d) Communicating and promoting the available tobacco cessation benefits and insurance coverage for employees to all prospective employees, new employees at the time of hire, and all existing employees on an annual basis.

(e) Free cessation counseling is also offered by the State Tobacco Helpline (1-800-QUIT-NOW).

(5) Providing specific implementation and enforcement support for the local and state laws mentioned above, including but not limited to:

(a) Posting any required signs informing people of applicable tobacco-free and vapor-free laws and policies at entrances to all buildings on municipal property; and

(b) 1. Including copies of applicable tobacco-free and vapor-free laws and policies in relevant municipal policy manuals, handbooks, or employee training materials. Employees are responsible for familiarizing themselves with these laws and policies and their applicable enforcement measures.

2. The town commits to supporting employees' access to clean air by limiting workplace exposure to secondhand tobacco smoke and secondhand vapor by doing the following:

a. Supporting existing local and state laws that prohibit smoking and the use of tobacco products and vapor products in indoor areas and on municipal property through educational materials, requisite signage, and enforcement assistance where applicable;

b. Prohibiting employees from smoking or using tobacco products and vapor products on municipal property during all hours of employment, including in indoor areas, such as elevators, and outdoor areas, such as parks and recreational areas;

c. Prohibiting employees from smoking or using tobacco products and vapor products in all vehicles owned or leased by the town at all times;

d. Prohibiting employees from smoking or using tobacco products or vapor products in personal vehicles during all hours of employment while such vehicles are on municipal property;

e. Prohibiting ash receptacles such as ash trays or ash cans and other tobacco product and vapor product waste receptacles on municipal property or in vehicles owned or leased by the town;

f. Providing cessation support for employees by doing the following:

i. Referring employees interested in quitting use of tobacco products and vapor products to the State Tobacco Helpline and other cessation resources, if available;

ii. Promoting the State Tobacco Helpline (1-800-QUIT-NOW or OKHelpline.com) to ensure awareness of the statewide services that are available;

iii. Providing insurance benefits and access to the following types of assistance with no prior authorization or out-of-pocket cost to the employee:

A. Group, individual, and phone counseling:

1. A minimum of four counseling sessions of at least ten minutes each per attempt; and
2. Two quit attempts per year.

B. All seven FDA-approved cessation aids.

iv. Communicating and promoting the available tobacco cessation benefits and insurance coverage for employees to all prospective employees, new employees at the time of hire, and all existing employees on an annual basis.

g. Free cessation counseling is also offered by the State Tobacco Helpline (1-800-QUIT-NOW).

(6) Providing specific implementation and enforcement support for the laws mentioned above, including but not limited to:

(a) Posting signs informing people of applicable tobacco-free and vapor-free laws and policies at entrances to all buildings on municipal property;

(b) Including copies of applicable tobacco-free and vapor-free laws and policies in relevant municipal policy manuals, handbooks, or employee training materials. Employees are responsible for familiarizing themselves with these laws and policies and their applicable enforcement measures; and

(c) Following the employee handbook's or policy manual's standard disciplinary procedures if an employee violates divisions (E)(5)(b)2. or (E)(5)(b)2.g. above, and treating the violation of these tobacco-free and vapor-free provisions like any other violation of municipal policy. (Document, "The Town of Talala Workplace Welleness Policy")

PLANNING COMMISSION

§ 31.25 CREATED; MEMBERSHIP.

A Planning Commission may be created for the town. It shall consist of five appointive members, all of whom shall be residents of the town, and the Mayor and the Town Engineer (if any) as ex officio members. The appointive members shall be nominated by the Mayor and appointed by the Board of Trustees and shall serve for terms of three years. Of the original appointive members, one shall serve

for a term of one year; two shall serve for a term of two years; and two shall serve for a term of three years. Vacancies shall be filled for the unexpired terms. The members shall serve without compensation. The Board of Trustees may remove members of the Town Planning Commission for cause. The Town Board of Trustees may carry out the functions of the Planning Commission until a commission is appointed.

(Prior Code, § 12-101)

Statutory reference:

Municipal planning commissions, see 11 O.S. §§ 45-101 through 45-104, and 45-106

§ 31.26 ORGANIZATION; MEETINGS; OFFICERS AND EMPLOYEES.

(A) (1) The Town Planning Commission shall elect a Chair, a Vice Chair, and Secretary, who shall serve until the first Monday of the next May after their election. The Secretary need not be a member of the Commission. The Commission shall determine the time and place of its regular meetings; and the Chair or any three members may call special meetings of the Commission.

(2) The Commission may employ engineers, attorneys, clerks, and other help deemed necessary, subject to the approval of the Board of Trustees.

(3) Their salaries and compensation shall be fixed by the Board, and shall be paid out of the town treasury as other salaries and compensation are paid. The necessary legal expenses shall be paid out of the town treasury as other legal expenses of the town government are paid.

(B) The Planning Commission shall meet regularly on the second Tuesday of each month at 5:30 p.m.

(Prior Code, § 12-102) (Res. 2024-01, passed 2-13-2024)

§ 31.27 POWERS AND DUTIES.

The Town Planning Commission shall have all the powers and duties prescribed for it by state law and all other powers and duties now or hereafter prescribed for it by any other provision of ordinance or law.

(Prior Code, § 12-103)

§ 31.28 TO HAVE POWER OF A ZONING COMMISSION.

(A) The Town Planning Commission is hereby appointed the Zoning Commission of the town, and the Town Planning Commission shall have the powers of a zoning commission as provided by state law.

Whether exercising the powers of a planning commission or the powers of a zoning commission, it shall be legally one board known as the Town Planning Commission.

(B) Exercising the powers of a zoning commission, the Town Planning Commission shall recommend the boundaries of the various zones and appropriate zoning regulations to be enforced therein. It shall have all the powers conferred upon a zoning commission by state law and all powers which now or in the future may be granted applicable state law to such authorities.

(Prior Code, § 12-104)

LIBRARY BOARD OF DIRECTORS

§ 31.40 CREATION.

The Board of Trustees places the management and control of the Talala Area Public Library under a Library Board of Directors. The Library Board shall consist of five Directors, chosen by the Board of Trustees with reference to their fitness for such office. No Director shall receive compensation as such. Directors appointed to the Library Board shall hold office for a term of three years from the first day of May following their appointment, and their terms shall be staggered. The Board of Trustees may remove any Director for misconduct or neglect of duty. Vacancies in the Library Board of Directors shall be filled in the same manner as original appointments.

(Ord. 2017-03, passed 9-12-2017)

§ 31.41 TERMS OF OFFICE.

The Directors of the Library Board shall cast lots for respective staggered terms. Two terms shall be for two years, and three terms shall be for three years. Thereafter the terms of all Directors shall be for three years.

(Ord. 2017-03, passed 9-12-2017)

§ 31.42 ORGANIZATION.

The Library Board, immediately after the appointment and qualification of its Directors, shall meet and organize by electing one Director as President and one Director as Secretary. The President of the Library Board shall preside over all meetings. The Secretary of the Library Board shall post agendas and take the minutes of all meetings.

(Ord. 2017-03, passed 9-12-2017)

§ 31.43 POWERS, DUTIES.

The Library Board shall have control and supervision of the Talala Area Public Library. The Library Board may appoint a suitable librarian and remove the librarian, subject to approval of the Board of Trustees. The Library Board shall fix any fees to be charged by the library and shall have such other powers and authority as may be provided by ordinance.

(Ord. 2017-03, passed 9-12-2017)

§ 31.44 GROUNDS, BUILDING.

The Library Board shall have the power, with the approval of the Board of Trustees, to purchase grounds and erect thereon a suitable building for the use of the library and to suitably equip the same, and to lease rooms or buildings for the use of the library. The title to any grounds so purchased or leased, as well as any building thereon, shall be taken in the name of the town as grantee.

(Ord. 2017-03, passed 9-12-2017)

§ 31.45 MAY PROVIDE PENALTIES.

(A) The Library Board may impose fines or suitable penalties for loss of, failure to return, or damage to library materials.

(B) For the loss or damage to library materials, the Board of Trustees establishes a penalty equal to the replacement value of the lost or damaged library material.

(C) In addition, the Board of Trustees establishes a penalty of \$0.25 per day for library materials not returned by the due date.

(Ord. 2017-03, passed 9-12-2017)

§ 31.46 DONATIONS.

(A) Any person desiring to make donations of money or personal or real property for the benefit of the Talala Area Public Library shall have the right to vest the title to such money or property in the municipality, to be held and controlled by the municipality, when accepted, according to the terms of the donation.

(B) The municipality shall be held and considered to be a special trustee as to such property or money donated.

(Ord. 2017-03, passed 9-12-2017)

§ 31.47 ANNUAL REPORT.

The Library Board shall make, on or before July 31 in each year, an annual report to the municipal governing body stating:

(A) The condition of its trust on June 30 of that year;

(B) The various sums of money and property received from the Library Fund and other sources, and how such monies have been expended and for what purposes;

(C) The budget for the library for the next fiscal year;

(D) Statistics on the general character and number of books and periodicals which:

(1) Are on hand;

(2) Are lost or missing;

(3) Have been added by purchase, gift, or otherwise during the year; and

(4) Have been loaned out during the year.

(E) The number of persons making use of the library during the year; and

(F) Such other information, statistics, and suggestions as it may deem of general interest.
(Ord. 2017-03, passed 9-12-2017)

CHAPTER 32: MUNICIPAL COURT

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GENERAL PROVISIONS

§ 32.01 ORGANIZATION OF MUNICIPAL COURT.

This chapter shall govern the organization and operation of the Municipal Court of the town, as put into operation by resolution, and duly passed and filed in accordance with law, as authorized by 11 O.S. §§ 27-101 and 27-102. To the extent of conflict between any provisions of this chapter and the provisions of any ordinance of the town, the provisions of this chapter shall control.

(Prior Code, § 6-101)

Statutory reference:

Municipal courts not of record, organization, rules, and procedures, see 11 O.S. §§ 27-101 through 27-13

§ 32.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF OF POLICE. The peace officer in charge of the police force of the municipality.

CLERK/TREASURER. The Clerk/Treasurer of the municipality, including any deputy or member of the office staff of the Clerk/Treasurer while performing duties of the Clerk/Treasurer's office.

COURT. The Municipal Court of the Town of Talala, Oklahoma.

GOVERNING BODY. The Town Board of Trustees of the Town of Talala, Oklahoma.

JUDGE. The Judge of the Municipal Court, including any Acting Judge or Alternate Judge thereof as provided for by the statutes of the state and this chapter.

MUNICIPALITY or ***THIS MUNICIPALITY***. The Town of Talala, Oklahoma.

THIS JUDICIAL DISTRICT. The District Court judicial district of the state wherein the government of the municipality is situated.
(Prior Code, § 6-102)

§ 32.03 JURISDICTION OF COURT.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of the municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law.
(Prior Code, § 6-103)

§ 32.04 COURT MARSHAL.

All writs or process of the court shall be directed, in his or her official title, to the Chief of Police of the municipality, who shall be the principal officer of the Court.
(Prior Code, § 6-113)

§ 32.05 CLERK OF COURT; DUTIES.

The Town Clerk/Treasurer, or a designated deputy, shall be the Clerk of the Court. Duties of the Court Clerk shall include the following.

(A) Assisting the Municipal Judge in recording the proceedings of the Court and in preparing writs, processes, and other papers.

(B) Administering oaths required in proceedings before the Court.

(C) Entering all pleadings, processes, and proceedings in the dockets of the Court.

(D) Performing such other clerical duties relating to the proceedings of the Court as the Municipal Judge shall direct.

(E) Receiving and receipting for forfeitures, fees, deposits, and sums of money payable to the Court.

(F) Assuming responsibility for placing, or having placed, all money received (except such special deposits or fees as shall be received to be disbursed for special purposes), in the General Fund of the town, or in such other fund and in such manner as the Town Board may direct by motion or resolution. (Ord. 2023-03, passed 8-25-2023)

§ 32.06 PROSECUTING ATTORNEY; DUTIES; CONFLICT OF INTEREST.

(A) The Attorney for the municipality, or his or her duly designated assistant, shall be the prosecuting officer of the Court. He or she shall also prosecute all alleged violations of the ordinances of the town.

(B) He or she shall be authorized, in his or her discretion, to prosecute and resist appeal, proceedings in error, and review from this Court to any other court of the state, and to represent the municipality in all proceedings arising out of matters in this Court. (Prior Code, § 6-115)

§ 32.07 BOND OF CLERK.

(A) The Court Clerk shall give bond in the form provided by 11 O.S. § 27-111. When executed, the bond shall be submitted to the governing body for approval.

(B) When approved, it shall be filed with Clerk/Treasurer of the municipality and retained in the municipal archives. (Prior Code, § 6-116)

§ 32.08 SUMMONS FOR ARREST.

(A) Upon the filing of a complaint charging violation of any ordinance, the Judge, unless he or she determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his or her address or place of residence, if known, stating the offense with which he or she is charged, and giving him or her notice to answer the charge in the Court on a certain day as specified after the summons is served upon him or her, and including such other pertinent information as may be necessary.

(B) The summons shall be served by delivering a copy to the defendant personally. If he or she fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his or her arrest, as provided by this chapter. (Prior Code, § 6-122)

§ 32.09 IMPRISONMENT; WORK BY PRISONERS.

(A) *Court costs.* Pursuant to 11 O.S. § 27-126, as amended, Court costs shall be no more than \$30, plus witness and mileage fees, per case and may be added to the fine. All funds collected shall be deposited in the appropriate fund.

(B) *Additional fees.*

(1) Notwithstanding other costs allowed pursuant to this section and this code, the Municipal Court, at its discretion, may require that a person confined in the County Jail, both before or after conviction, upon conviction, or receiving a deferred sentence in lieu of a fine, pay the contract amount owed by the town to the County Sheriff's office for the cost of incarceration of the individual.

(2) The Municipal Court, in its discretion, in addition to the contract amount paid to the County Sheriff's Department for the incarceration of the individual convicted, may also assess additional cost associated with medical care, dental care, psychiatric services, or other costs expended for the health services provided to the municipal prisoner.

(3) (a) The cost of incarceration shall be paid by the inmate to the town and shall be collected by the Clerk of the Municipal Court.

(b) The Clerk of the Municipal Court shall then pay the monies collected to the Town Clerk/Treasurer for payments as required pursuant to 22 O.S. § 979a.

(4) A criminal justice and Municipal Court technology, training, and equipment fee shall be and is hereby established in the amount of \$15. The fee shall be in addition to, and not in substitution for, any and all costs, fees, fines, assessments, or penalties otherwise provided for by law, and assessed on every citation disposed of in the Municipal Court except those that are voided, declined for prosecution, dismissed without costs, or the defendant is acquitted, or the fine is less than \$25. Citations for which fees and costs are specifically limited by law shall also be excluded from assessment of said fee. The revenues generated by this fee shall be used solely and exclusively for the acquisition, operation, maintenance, repair, lease, and replacement of hardware, software, and equipment used in the operation, prosecution, and administration of the Municipal Court and criminal justice system of the town, which shall include, but is not limited to: computers, hardware, and software; audio, video, and other electronic technologies to assist with Municipal Court and criminal justice duties and proceedings; DigiTicket and/or other electronic ticketing technology lease funds and equipment; and ODIS (Offender Data Information System) software lease fees, equipment, and the maintenance of said Municipal Court electronics, including phone systems and hardware. All monies collected under this section shall be accounted for in a separate fund; unused monies shall carry over in full to the next fiscal year.

(5) In the event the Court grants a deferred sentence, there is hereby established an administrative deferral processing fee which shall be set by a resolution of the Town Board, or other

such fee as allowed by law, which shall be in addition to and not in substitution for any and all fines, fees, penalties, and Court costs assessed and otherwise provided for by law for the offense. This deferral processing fee shall be assessed on every citation for which a deferred sentence is granted.

(C) *Contract with collection agency for unpaid debts; fee.*

(1) *Town collection fee allowed.* If the town has entered a contract with a collection agency pursuant to 11 O.S. § 22-138, the town is authorized to a collection fee in an amount not to exceed 35 % on the following:

(a) Debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the town, as applicable; and

(b) Court penalties, costs, fines, and fees in cases in Municipal Court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the Court that have been referred by the town to the collection agency for collection.

(2) *Court-ordered fee.* If the town has entered into such a contract with a collection agency, and the collection fee is authorized as stated in this division (C), the Court shall order defendants to reimburse the fee arising pursuant to division (C)(1)(a) above, and such Court-ordered fee may be collected as provided by law for the collection of any other civil debt or criminal action.
(Ord. 2023-03, passed 8-25-2023)

§ 32.10 CREATION OF TRAFFIC VIOLATIONS BUREAU.

(A) There may be established a Traffic Violations Bureau for the town. The Judge may establish rules, consistent with the laws of the state and with the ordinances of the municipality, for the Traffic Violations Bureau.

(B) The Traffic Violations Bureau shall be staffed by Court personnel and be physically separate and apart from the Police Department.

(C) The Traffic Violations Bureau shall accept fines which may be paid in lieu of a Court appearance for such traffic offenses as may be designated by the Judge under the Court's rules. The schedule of fines shall be adopted by the governing body from time to time by motion or resolution. A copy shall be kept in the Clerk/Treasurer's office.

(D) Payment of any fine to the Traffic Violations Bureau shall be deemed a final determination of the cause against the defendant. In no event shall any such payment be introduced as evidence in any civil cause arising out of the offense charged.

(Prior Code, § 6-133)

JUDGE

§ 32.25 QUALIFICATIONS.

(A) (1) Except as otherwise provided in this code, there shall be one Judge of the Municipal Court. A Judge shall be an attorney licensed to practice law in the state.

(2) A Judge who is a licensed attorney may engage in the practice of law in other courts, but he or she shall not accept employment inconsistent with his or her duties as Judge or arising out of facts which give rise to or are connected with cases within the jurisdiction of the Court, pending therein or which might become the subject of proceedings therein. A licensed attorney must be a resident of the state.

(3) He or she may serve as Judge of other municipal courts, if such service may be accomplished consistently with his or her duties as Judge of this Court, with the consent of the Mayor and the Town Board of Trustees.

(B) (1) Beginning July 1, 2026, any person currently appointed or serving as a Municipal Judge for the town shall have completed a certification program as approved by the State Municipal Judges Association.

(2) The certification program shall have a minimum of 12 hours of continuing legal education approved by the State Bar Association Mandatory Continuing Legal Education Commission to include laws specific to municipal courts, trial evidentiary matters, criminal cases eligible for municipal courts, and indigency hearings.

(C) Any person appointed as a Municipal Judge after July 1, 2026 shall have one year from the date of appointment to complete the certification program described in division (B) above.

(D) A copy of the State Municipal Judge certification shall be filed with the County Clerk in the county in which the municipality is located and with the Municipal Court Clerk (11 O.S. § 27-104). (Ord. 2023-03, passed 8-25-2023)

§ 32.26 TERM.

The official term of the Municipal Judge shall be two years, expiring on May 16 in each odd-numbered year. The Municipal Judge, unless sooner removed for proper cause, shall serve until a successor is appointed and qualified.

(Ord. 2023-03, passed 8-25-2023)

§ 32.27 ALTERNATE JUDGE.

There shall be appointed for each Judge of the Court an Alternate Judge possessed of the same qualifications required of the Judge in this chapter. His or her appointment shall be for the same term and made in the same manner as the Judge. He or she shall sit as Acting Judge of the Court in any case if the Judge is:

(A) Absent from the Court;

(B) Unable to act as Judge; or

(C) Disqualified from acting as Judge in the case.

(Prior Code, § 6-106)

§ 32.28 ACTING JUDGE.

If at any time there is no Judge or Alternate Judge, duly appointed and qualified, available to sit as Judge, the Mayor shall appoint some person, possessing the qualifications required by this chapter for the Judge, who shall preside as Acting Judge over the Court in the disposition of pending matters until such time as a Judge or Alternate Judge shall be available.

(Prior Code, § 6-107)

§ 32.29 APPOINTMENT.

Judges and Alternate Judges shall be appointed by the Mayor with the consent of the governing body. A proposed appointment shall be submitted in writing to the governing body at the next to the last regularly scheduled meeting prior to the day upon which the appointment is to take effect and shall be acted upon at the next regularly scheduled meeting. The governing body may decide upon the proposed appointment by a majority vote of a quorum present and acting. Failure of a decision upon a proposed appointment shall not prevent action thereon at a later regularly scheduled meeting of the governing body unless the Mayor, in writing, withdraws the proposed appointment.

(Prior Code, § 6-108)

§ 32.30 SALARY, PAYMENTS.

(A) A Judge, other than an Alternate Judge or an Acting Judge, shall receive a salary as set by the governing body by motion or resolution, paid in the same manner as the salaries of other officials of the municipality.

(B) An Alternate Judge or an Acting Judge shall be paid an amount as set by motion or resolution of the governing body, however payments to an Acting or Alternate Judge shall not exceed the salary set for a Judge in whose stead he or she sits.

(Prior Code, § 6-109)

§ 32.31 REMOVAL.

(A) Judges shall be subject to removal from office by the governing body for the causes prescribed by the constitution and laws for the state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by:

(1) The Mayor; or

(2) Twenty-five or more qualified electors of the municipality. Verification of the number or qualifications of electors shall be executed by one or more of the petitioners.

(B) The governing body shall set a date for hearing the matter and shall cause notice thereof, together with a copy of the petition, to be served personally upon the Judge at least ten days before the hearing. At the hearing, the Judge shall be entitled to:

(1) Representation by counsel;

(2) To present testimony and to cross-examine the witnesses against him or her; and

(3) Have all evidence against him or her presented in open hearing.

(C) So far as they can be applicable, the provisions of the State Administrative Procedures Act governing individual proceedings (75 O.S. §§ 309 through 317, as amended) shall govern removal proceedings hereunder. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the governing body, in favor of such removal.

(Prior Code, § 6-110)

§ 32.32 VACANCY.

(A) A vacancy in the office of Judge shall occur if the incumbent:

(1) Dies;

(2) Resigns;

(3) Ceases to possess the qualifications for the office; or

(4) Is removed and the removal proceedings have been affirmed finally in judicial proceedings, or are no longer subject to judicial review.

(B) Upon the occurrence of a vacancy in the office of Judge, the Mayor shall appoint a successor to complete the unexpired term in the same manner as an original appointment is made.
(Prior Code, § 6-111)

§ 32.33 DISQUALIFICATION.

(A) In prosecutions before the Court no change of venue shall be allowed; but the Judge before whom the case is pending may certify his or her disqualification or he or she may be disqualified from sitting under the terms, conditions, and procedure provided by law for courts of record.

(B) If a Judge is disqualified, the matter shall be heard by an Alternate or Acting Judge appointed as provided in this subchapter.
(Prior Code, § 6-112)

RULES AND PROCEDURES

§ 32.45 RULES OF COURT.

The Judge may prescribe rules, consistent with the laws of the state and with the ordinances of the municipality, for the proper conduct of the business of the Court.
(Prior Code, § 6-117)

§ 32.46 ENFORCEMENT.

Obedience to the orders, rules, and judgments made by the Judge or by the Court may be enforced by the Judge, who may fine or imprison for contempt committed as to him or her while holding court, or committed against process issued by him or her, in the same manner and to the same extent as the district courts of the state.
(Prior Code, § 6-118)

§ 32.47 WRITTEN COMPLAINTS.

All prosecutions for violations of ordinances of the municipality shall be styled “The Town of Talala vs. (naming defendant or defendants).” Except as provided hereinafter, prosecution shall be initiated by the filing of a written complaint, subscribed and verified by the person making complaint, and setting forth concisely the offense charged.

(Prior Code, § 6-119)

§ 32.48 ORDINANCE VIOLATIONS; PROCEDURES; CUSTODY, ARREST.

(A) If a police officer observes facts which he or she believes constitute a violation of an ordinance of the municipality, committed by a resident or nonresident, in lieu of arresting such a person, he or she may take his or her name, address, operator’s license number, and registered license number of the motor vehicle involved and any other pertinent and necessary information and may issue him or her in writing in form prescribed by the Mayor, or his or her duly designated delegate, a traffic citation embracing the above information, and also stating the traffic violation alleged to have occurred, and notifying him or her to answer to the charge against him or her at a time not later than the date specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation to answer as specified, may then release the person from custody. If the person to whom a citation is issued fails to answer as prescribed in the citation, a complaint shall be filed, and the case shall be prosecuted as otherwise provided in this chapter.

(B) If the alleged traffic violation is committed by a nonresident or resident of the municipality, the police officer may:

(1) Release the person after obtaining sufficient information as set out in division (A) above pending his or her appearance on a day certain in Court, as specified in the citation after the person:

(a) Posts cash bail;

(b) Deposits with the arresting officer a guaranteed arrest bond certificate; or

(c) Deposits with the arresting officer a valid license to operate a motor vehicle in exchange for a receipt therefor issued by the arresting officer as provided in § 32.47.

(2) Take the person in custody and demand that bond for the offense charged be posted according to the provisions of this chapter; or

(3) Take the person into custody under arrest. The arrested person either shall be taken immediately before the Judge for further proceedings according to law or shall have bail fixed for his or her release in accordance with the provisions of this chapter. Upon providing bail as fixed, and upon

giving his or her written promise to appear upon a day certain, as provided in division (A) above, the person shall be released from custody.

(C) If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such an ordinance, and the operator be not present, the police officer shall place on the vehicle, at a place reasonably likely to come to the notice of the operator, a citation conforming substantially to that prescribed in divisions (A) or (B) above, with such variation as the circumstances require, the operator of the vehicle shall be under the same obligation to respond to the citation as if it had been issued to him or her personally under divisions (A) or (B) above.

(D) (1) Any law enforcement officer who has arrested a person on a violation of an ordinance of the town may issue a citation to such person to appear in court, which shall contain the name and address of the cited person, the offense charged and date on which the person is to appear in court, which shall be at least five days after the issuance of the citation. A copy of the citation shall be delivered to the person cited. As soon as practicable thereafter, the officer shall file the original of the citation with the court.

(2) In the event the judge finds sufficient grounds for issuance of a warrant, he or she may issue a summons commanding the defendant to appear rather than issue a warrant.

(3) A person who has been summoned to appear who willfully fails to appear in response to a summons is guilty of a misdemeanor; and, in addition, a warrant may be issued for his or her arrest for the failure to appear and for violation of the offense for which the summons was issued.

(E) Should any accused person fail to appear at the fixed time and respond to any notice given, the Municipal Judge may, at his or her discretion, impose an additional fine in the amount of \$149 on that person, separate and apart from any fine for the violation for which the person is required to appear as provided in § 10.99.

(Ord. 2023-03, passed 8-25-2023)

§ 32.49 TRAFFIC BAIL BOND PROCEDURE.

(A) In addition to other provisions of law for posting bail, any person, whether a resident of the state or a nonresident who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance shall be released by the arresting officer upon personal recognizance if:

(1) The arrested person has been issued a valid license to operate a motor vehicle by the state, another state jurisdiction within the United States, or any party jurisdiction of the Nonresident Violator Compact;

(2) The arresting officer is satisfied as to the identity of the arrested person;

(3) The arrested person signs a written promise to appear as provided for on the citation; and

(4) The violation does not constitute:

(a) A felony;

(b) Negligent homicide;

(c) Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;

(d) Eluding or attempting to elude a law enforcement officer;

(e) Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial, or cancellation;

(f) An arrest based upon an outstanding warrant;

(g) A traffic violation coupled with any offense stated in divisions (A)(4)(a) through (A)(4)(f) above;

(h) An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or

(i) A violation relating to the transportation of hazardous materials.

(B) (1) If the arrested person is eligible for release on personal recognizance as provided for in division (A) above, then the arresting officer shall:

(a) Designate the traffic charge;

(b) Record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;

(c) Record the motor vehicle make, model, and tag information;

(d) Record the arraignment date and time on the citation; and

(e) Permit the arrested person to sign a written promise to appear as provided for in the citation.

(2) The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and, that failure to timely appear for arraignment shall result in the suspension of the arrested person's drivers license in the state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

(C) Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of driver's license shall be required in state law, 22 O.S. §§ 1115.1 through 1115.5.

(D) A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before he or she is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or her or on a legible copy thereof, together with the date of the plea and his or her signature. The defendant shall be responsible for assuring full payment of the fine and costs to the Court Clerk. The defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this division (D), such plea shall be accepted by the Court and the amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the Court.

(E) (1) If, pursuant to the provisions of division (D) above, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the Court may issue a warrant for the arrest of the defendant and the Municipal or District Court Clerk, within 120 calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

(a) The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;

(b) The defendant has failed to appear for arraignment without good cause shown;

(c) The defendant has not posted bail, paid a fine, or made any other arrangement with the Court to satisfy the citation; and

(d) The citation has not been satisfied as provided by law.

(2) The Court Clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in the state, or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the

Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The Court Clerk shall not process the notification and request provided for in this division (E) if, with respect to such charges:

(a) The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;

(b) The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section, or if released was not permitted to remain on such personal recognizance for arraignment;

(c) The violation relates to parking or standing an overweight violation, an overweight permit, or the transportation of hazardous materials; or

(d) A period of 120 calendar days or more has elapsed from the date the citation was issued by the arresting officer.

(F) The Court Clerk shall maintain a record of each request for driver's license suspension submitted to the State Department of Public Safety pursuant to the provisions of this section. When the Court or Court Clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the Court Clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the Court or Court Clerk shall notify the home jurisdiction of the defendant as listed on the citation if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the Court or Court Clerk's failure to furnish such proof or notice in the manner provided for in this division (F) shall in no event create any civil liability upon the Court, the Court Clerk, the state, or any political subdivision thereof, or any state department or agency or any employee thereof, but duplicate proof shall be furnished to the person entitled thereto upon request.

(Prior Code, § 6-121)

§ 32.50 FORM OF ARREST WARRANT.

(A) Except as otherwise provided in the ordinances of the municipality, upon the filing of a complaint approved by the endorsement of the attorney of the municipality or by the Judge, there shall be issued a warrant of arrest, in substantially the following form:

The Town of Talala to the Marshal of the Municipal Court of Talala, Oklahoma.

Complaint upon oath having this day been made by (naming complainant) that the offense (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefore forthwith to arrest the above-named defendant and bring the above named (name of defendant) before me, at the Municipal Courtroom,

Witness my hand this _____ day of _____, 20____.

Judge of the Municipal Court, Talala, Oklahoma

(B) It is the duty of the Marshal, personally or through a duly constituted member of the police force of the municipality, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible.

(Prior Code, § 6-123)

§ 32.51 PROCEDURES FOR BAIL OR BOND.

(A) Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his or her appearance in the amount and upon conditions fixed by this chapter or the Judge, who shall prescribe appropriate rules of Court for the receipt of bail. In case of arrest made at night or under other conditions or emergency or when the Judge is not available, the rules shall authorize the Chief of Police, or his or her designated representative, to accept a temporary cash bond of not less than \$10 nor more than the maximum monetary penalty provided by ordinance for the offense charged.

(B) A bail bond schedule may be adopted by the Town Board and amended by motion or resolution.
(Prior Code, § 6-124)

§ 32.52 FAILURE TO APPEAR.

Should any accused person fail to appear at the fixed time and respond to any notice given, the municipal Judge may, at his or her discretion, impose an additional fine on that person, separate and apart from any fine for the violation for which the person is required to appear as provided in § 10.99.
(Prior Code, § 6-125)

§ 32.53 TRIALS AND JUDGMENTS.

(A) Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

(B) The defendant must be present in person at the trial.

(C) In all trials, as to matters not covered in this chapter, or by the statutes relating to Municipal Criminal Courts, or by rules duly promulgated by the Supreme Court of the state, the procedure applicable in trials of misdemeanors in the District Courts shall apply to the extent that they can be made effective.

(D) If the defendant pleads guilty or is convicted after the trial, the Court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

(E) At the close of trial, judgment must be rendered immediately by the Judge who shall cause it to be entered in his or her docket.

(F) If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he or she must be discharged at once.

(G) (1) A judgment that the defendant pay a fine may also direct that he or she be imprisoned until the fine is satisfied at the rate of one day imprisonment for each \$5 of fine. If the defendant is without means to pay the fine or costs, the Municipal Judge may direct the total amount due to be entered upon the court minutes and to be certified to the District Court of the county wherein the status of government is situated where it shall be entered upon the District Court judgment docket and shall have the full force and effect of a District Court judgment.

(2) Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

(H) When the judgment and sentence of a Court, either in whole or in part, imposes Court financial obligations upon a defendant, the Court at the time of sentencing may immediately, or at any point thereafter until the debt is either paid or waived, determine the ability of a defendant to pay the court financial obligations. The Court may make such determinations at a cost hearing or upon written motion or affidavit by the defendant. The ability of a defendant to pay Court financial obligations may not impact the sentence imposed.

(1) Defendants with Court financial obligations who are found by the Court to be unable to pay, in whole or in part, shall be relieved of the debt by the Court through a hardship waiver of the Court financial obligations, either in whole or in part.

(2) In determining the ability of a defendant to pay, the Court shall consider the following factors:

- (a) Individual and household income;
- (b) Household living expenses;
- (c) Number of dependents;
- (d) Assets;
- (e) Child support obligations;
- (f) Physical or mental health conditions that diminish the ability to generate income or manage resources;
- (g) Additional case-related expenses to be paid by the defendant; and
- (h) Any other factors relevant to the ability of the defendant to pay.

(3) In determining the ability of a defendant to pay, the following shall not be considered as income or assets:

- (a) Child support income;
- (b) Any monies received from a federal, state, or tribal government need-based or disability assistance program; or
- (c) Assets exempt from bankruptcy.

(4) Defendants in the following circumstances are presumed unable to pay and eligible for relief under this division (H):

- (a) Designated as totally disabled by any federal, state, or tribal disability services program including but not limited to military disability, Social Security Disability Insurance, Supplemental Security Income, or tribal disability benefits;
- (b) Receives support from the Temporary Assistance for Needy Families program, Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children Nutrition, Education, and Supplemental Food Program, or any other federal need-based financial support;

(c) Receives subsidized housing support through the Housing Choice Voucher Program, the United States Department of Housing and Urban Development, or other state, local, or federal government housing subsidy program; or

(d) Total income is below 150% of the federal poverty level.

(I) (1) At the time of a plea or sentencing, the Court shall inform the defendant of the total court financial obligations owed, the consequences of failing to pay the Court financial obligations, and that the defendant may request a cost hearing if at any time he or she is unable to pay the Court financial obligations, at which point the Court may waive all or part of the debt owed. If the total amount of Court financial obligations owed is not available at the time of the plea or sentencing, the Court shall inform the defendant that court financial obligations have been incurred and the time and location where the defendant may learn of the total amount owed.

(2) The Court shall order the defendant to appear immediately after sentencing at the office of the Court Clerk to provide current contact information and to either select payment terms or request a cost hearing. Failure to immediately report to the Court Clerk shall result in the full amount of Court financial obligations to be due 30 days from the date of the plea or sentencing in municipal courts.

(3) (a) Payment of Court financial obligations may be made under the following terms:

1. Payment in full; or
2. Payment in installments.

(b) Upon any change in circumstances affecting the ability of a defendant to pay, a defendant may request a cost hearing before the Court by contacting the Court Clerk.

(4) The Municipal Court shall provide a cost hearing for any defendant upon request, either by establishing a dedicated docket or on an as-requested basis. A defendant who requests a cost hearing will receive a summons by personal service or by United States mail to appear in court as required by division (G) above. If a defendant fails to appear for a requested cost hearing, the Court may issue either a cost cite and release warrant or a cost arrest warrant. No fees shall be assessed or collected from the defendant as a consequence of either requesting a cost hearing or the issuing of a cost cite and release warrant.

(J) In determining the ability of the defendant to pay Court financial obligations, the Court may rely on testimony, relevant documents, and any information provided by the defendant using a cost hearing affidavit promulgated by the Court of Criminal Appeals. In addition, the Court may make inquiry of the defendant and consider any other evidence or testimony concerning the ability of the defendant to pay.

(K) (1) If at the initial cost hearing or any subsequent cost hearing the Court determines that the defendant is able to pay some or all of the Court financial obligations, the Court may order any of the following conditions for payment:

- (a) Payment in full;
- (b) Payment in installments;
- (c) Financial incentive under a set of conditions determined by the Court; or

(d) Community service in lieu of payment; provided, the defendant shall receive credit for no less than two times the amount of the minimum wage specified pursuant to state law for each hour of community service.

(2) Any defendant who fails to comply with the terms of the payment plan ordered by the Court shall be considered delinquent and the Court may issue either a cost cite and release warrant or a cost arrest warrant.

(L) If the Court determines that a waiver of any of the Court financial obligations is warranted, the Court shall apply the same percentage reduction equally to all fines, costs, fees, and assessments, excluding restitution.

(M) (1) A defendant is considered delinquent in the payment of Court financial obligations under the following circumstances:

- (a) When the total amount due has not been paid by the due date; or
- (b) When no installment payments have been received in the most recent 90-day period.

(2) The Court Clerk shall periodically review cases for delinquency at least once every six months and, upon identifying a delinquent defendant, notify the Court which shall, within ten days thereafter, set a cost hearing for the Court to determine if the defendant is able to pay. The cost hearing shall be set within 45 days of the issuance of the summons.

(3) The hearing shall be set on a date that shall allow the Court Clerk to issue a summons 14 days prior to the cost hearing. Defendants shall incur no additional fees associated with the issuance of the summons.

(N) At least 14 days prior to the cost hearing, the Court Clerk shall issue one summons to the defendant to be served by United States mail to the mailing address of the defendant on file in the case, substantially as follows:

You are ORDERED to appear for a COST HEARING at a specified time, place, and date to determine if you are financially able to pay the fines, costs, fees, or assessments or an installment due in

Case No. -----

YOU MUST BE PRESENT AT THE HEARING.

At any time before the date of the cost hearing, you may contact the Court Clerk and pay the amount due or request in writing or in person prior to the Court date, that the hearing be rescheduled for no later than thirty (30) days after the scheduled time.

THIS IS NOT AN ARREST WARRANT. However, if you fail to appear for the cost hearing or pay the amount due, the Court will issue a WARRANT and refer the case to a court cost compliance liaison which will cause an additional administrative fee of up to thirty-five percent (35%) to be added to the amount owed and may include additional costs imposed by the Court.

(O) Referrals to the Court Cost Compliance Program as provided in division (L) above shall be made as follows:

(1) Courts shall refer a case to the Court Cost Compliance Program upon the issuance of a cost arrest warrant;

(2) Courts may refer a case to the Court Cost Compliance Program upon the issuance of a cost cite and release warrant; or

(3) Courts may refer a case to the Court Cost Compliance Program without the issuance of a warrant; provided, the defendant is delinquent and has had sufficient notice and opportunity to have a cost hearing.

(P) In lieu of mailing the summons provided for in this division (P), the Municipal Court may give the summons to the defendant in person at the time of sentencing or subsequent appearance of a specific date, time, and place, not fewer than 30 days nor more than 120 days from the date of sentencing to appear for cost hearing if the Court financial obligations remain unpaid.

(Q) (1) The provisions for issuing a separate summons described in division (P) above shall not apply if the Municipal Court has previously provided actual personal notice to the defendant of an opportunity for a cost hearing.

(2) If such notice was given and the defendant fails to appear, the Municipal Court may issue either a cost cite and release warrant or a cost arrest warrant.

(R) (1) After a cost hearing where a defendant is found able to pay a Court financial obligation, either in whole or in part, and then becomes delinquent in that payment, a Court may conduct a willfulness hearing at any time beginning immediately after a cost hearing has been held and a decision rendered on the Court financial obligations.

(2) Findings of a defendant's prior ability to pay may be considered as evidence of ability to pay or willfulness at the hearing. The requirements of this division (R) shall not be construed to prohibit the Court from holding subsequent cost hearings on the same Court financial obligations. At a willfulness hearing, the Court shall evaluate the following:

(a) Whether a cost hearing has been held previously where evidence relating to ability to pay was presented and the Court found the defendant was able to pay the Court financial obligations, either in whole or in part;

(b) Whether there is any new evidence of ability to pay not previously considered or a change in circumstances since the cost hearing;

(c) Whether the defendant was afforded sufficient time and opportunity to fulfill the obligation to pay the Court financial obligations;

(d) Whether the defendant made any efforts to satisfy the Court financial obligations; and

(e) Whether there are any other relevant facts or circumstances.

(3) After a finding of willful failure to pay Court financial obligations, the Court may impose a jail sentence pursuant to 28 O.S. § 101. A jail sentence may be imposed only under the following circumstances:

(a) The hearing is conducted on the record pursuant to the rules promulgated by the Court of Criminal Appeals; and

(b) The defendant is represented by counsel or expressly waives his or her right to counsel.

(S) If a jail sentence is imposed, the Court may grant credit for any time already served. At any time after incarceration, the jail sentence may be satisfied upon payment in full of the outstanding balance with credit for any time already served.

(T) In addition, the Municipal Court, within 120 days from the date upon which the person was originally ordered to make payment, and if the Court finds and memorializes into the record that the defendant is financially able but willfully refuses to pay the Court financial obligations, or an installment due, may send notice of nonpayment of any Court-ordered fine and costs for a moving traffic violation to the Service Oklahoma with a recommendation of suspension of driving privileges of the defendant

until the total amount of any Court financial obligation has been paid. Upon receipt of payment of the total amount of the Court financial obligations for the moving traffic violation, the Court shall send notice thereof to Service Oklahoma if a nonpayment notice was sent as provided for in this division (T). Notices sent to Service Oklahoma shall be on forms or by a method approved by Service Oklahoma. (Prior Code, § 6-127)

§ 32.54 WITNESS FEES.

(A) Witnesses in any proceeding in the Court other than the police officers or peace officers shall be entitled to a sum per each day of attendance, plus mileage for each mile actually and necessarily traveled in going to and returning from the place of attendance if their residence is outside the limits of the municipality. However, no witness shall receive fees or mileage in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the Clerk a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

(1) The names of no more than three witnesses;

(2) The defendant, by reason of his or her poverty, is unable to provide the fees and mileage allowed by law;

(3) The testimony of the witnesses is material; and

(4) Their attendance at the trial is necessary for his or her proper defense.

(B) The fees of such witnesses shall be paid by the municipality.
(Prior Code, § 6-129)

§ 32.55 SUSPENSION OF SENTENCE.

After conviction and sentence, the Judge may suspend sentence, in accordance with the provisions of, and subject to the conditions and procedures imposed by, 11 O.S. §§ 27-123 and 27-124. (Prior Code, § 6-130)

§ 32.56 FINES, COSTS.

In addition to the Court costs collected pursuant to § 32.09 of this section, for every fine, deferral fee in lieu of a fine, or bond forfeiture collected by the Municipal Court of the town, additional local and state-mandated fees, costs, and penalty assessments shall be collected as provided in 20 O.S. §§ 1313.2,

1313.3, and 1313.4, as amended, and as provided in other applicable state law and in this chapter. The Town Clerk/Treasurer, or other individual designated by the Town Board, shall forward mandated reimbursements to the state on a quarterly basis unless otherwise required by law.
(Ord. 2023-03, passed 8-25-2023)

§ 32.57 DEFERRAL PROCESSING FEE.

A deferral fee of \$100 as allowed by law, which shall be in addition to and not in substitution for any and all fines, fees, penalties, and Court costs assessed and otherwise provided for by law for an offense that is granted a deferred sentence by the Town Municipal Court.
(Res. 2023-07, passed 8-25-2023)

§ 32.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Every person who, directly or indirectly, utters or addresses any threat or intimidation to any judicial or ministerial officer, to any juror, referee, arbitrator, umpire, or assessor or other person authorized by law to hear or determine any controversy, with intent to induce him or her either to any act not authorized by law, or to omit or delay the performance of any duty imposed upon him or her by law, in violation of § 32.48, is guilty of a misdemeanor.

(2) Every person convicted of violating § 32.48(A) through (C) shall be deemed guilty of a misdemeanor.

(2) (a) Every person who has been issued a citation, in response to which such person has agreed in writing to appear, who, without good cause, fails to appear at the time and place set forth in such citation, in violation of § 32.48(E), is guilty of a misdemeanor.

(b) Every person who has requested and has been granted additional time within which to pay a fine imposed by the Court who, without good cause, fails to pay the fine imposed within the time allotted by the Court and fails to appear at the time fixed by the Court for payment of the fine, in violation of § 32.48(E), is guilty of a misdemeanor.
(Ord. 2023-03, passed 8-25-2023)

CHAPTER 33: EMERGENCY MANAGEMENT; PUBLIC SAFETY

Section

Police Department

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- 33.02 Duties
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POLICE DEPARTMENT**§ 33.01 DEPARTMENT CREATED; CHIEF OF POLICE.**

(A) There shall be a Town Police Department, the head of which is the Chief of Police, or Police Chief, appointed by the Mayor and Board of Trustees and removable by the Mayor and Board of Trustees for just cause. The Chief of Police is an officer of the town, and has supervision and control of the Town Police Department. All police officers are officers of the town. The Chief of Police and police officers shall serve a six-month probationary period. During the six-month probationary period, the Chief of Police and police officers may be terminated with or without just cause.

(B) The Chief of Police of the town shall be a peace officer and shall enforce the municipal ordinances. The Chief of Police shall have such other powers, duties, and functions as may be prescribed by law or ordinance.

(Prior Code, § 13-301) (Ord. 2009-01, passed 1-13-2009)

Statutory reference:

Related provisions, see 11 O.S. §§ 34-101 et seq.

§ 33.02 DUTIES.

(A) It is the duty of the Town Police Department to apprehend and arrest on view or on warrant and bring to justice all violators of the ordinances of the town; to suppress all riots, affrays, and unlawful assemblies which may come to their knowledge, and generally to keep the peace; to serve all warrants, writs, executions, and other processes properly directed and delivered to them; to apprehend and arrest persons violating federal or state law as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police officers.

(B) The Town Police Department has charge of and operates the Town Jail, however the Board of Trustees may arrange with the Board of County Commissioners for use of the County Jail.

(Prior Code, § 13-302) (Ord. 2009-01, passed 1-13-2009)

§ 33.03 POLICE OFFICERS.

(A) Police officers shall be appointed by the Chief of Police subject to approval by the Mayor and Board of Trustees, and removable by the Mayor and Board of Trustees for just cause. Police officers shall perform such duties as shall be required of them by the Chief of Police, town ordinances, federal, state, and county regulations, and any other action required in the maintenance of good order and public peace.

(B) Police officers shall, at all times, have the power to make or order an arrest for any offense against the laws of this state or the ordinances of this town. The officer shall have such other powers, duties, and functions as may be prescribed by law or ordinance.

(C) In addition to regular full time municipal police officers, reserve municipal police officers may also be appointed by the Chief of Police. Reserve municipal police officers shall have the powers, duties, and functions as set forth in law or ordinance for regular full-time municipal police officers, including serving as police officers in another municipality requesting assistance pursuant to 11 O.S. § 34-103. A reserve municipal police officer shall serve on a part-time basis and shall perform duties only while on authorized duty.

(Prior Code, § 13-303) (Ord. 2009-01, passed 1-13-2009)

Statutory reference:

Related provisions, see 11 O.S. § 34-101

§ 33.04 ASSISTANCE TO ANOTHER COMMUNITY.

(A) Generally.

(1) Approval is hereby given for the service of members of the regular Police Department and Police Reserve of this town as police officers of any other city, town, or county, in an emergency situation, in this state, when such service is requested by the Mayor or Chief of Police of the city or town, or Sheriff of the county, in accordance with state law.

(2) Commissioned police officers of the regular Police Department of this town, upon request of the Mayor or a designee, or Chief of Police or a designee, of any other municipality, may serve as police officers in the municipality requesting their assistance. While so serving in another municipality, such police officers shall have the same powers and duties as though employed by the municipality where such duties are performed; except that salaries, insurance, and other benefits shall be provided in their regular manner by this town.

(3) Commissioned police officers of the regular Police Department of this town, upon request of a County Sheriff or a designee, or upon request by a commissioned law enforcement officer of the State Highway Patrol, may serve as law enforcement officers for the Sheriff's office or the State Highway Patrol, respectively. While so serving, such police officers shall have the same powers and duties as though employed by the requesting law enforcement agency and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency; except that salaries, insurance, and other benefits shall be provided in their regular manner by this town.

(4) Commissioned police officers of the regular Police Department of this town may be deputized by the County Sheriff or a designee subject to an interlocal governmental agreement to

combine town and county law enforcement efforts and to encourage cooperation between town and county law enforcement officials. Liability for the conduct of any town police officers deputized under the terms and conditions of an interlocal governmental agreement shall remain the responsibility of this town.

(5) (a) The Board of Trustees hereby authorizes the Mayor to respond to any request from any other jurisdiction within the state for law enforcement assistance in cases of emergency. The police officers of this town serving in response to the emergency request shall have the same powers and duties as though employed by the requesting law enforcement agency and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency; provided, however, that salaries, insurance, and other benefits shall be provided in the regular manner by this town.

(b) As used in this section, **EMERGENCY** means a sudden and unforeseeable occurrence or condition either as to its onset or its extent, of such severity or magnitude that immediate response or action is necessary to assist law enforcement agencies having jurisdiction at the scene of the emergency to carry out their functions.

(Prior Code, § 13-304)

(B) *Reimbursement required.* Any municipality or county requesting and receiving service by members of the Police Department of this town may reimburse this town for the cost of the transportation to and from such municipality of the officers so serving and the pro rata cost of their salaries, insurance, and other benefits attributable to their service in such municipality or county.

(Prior Code, § 13-305)

(Ord. 2009-01, passed 1-13-2009)

Statutory reference:

Related provisions, see 11 O.S. § 34-103

§ 33.05 CONTRACT REQUIRED EXCEPT IN PUBLIC EMERGENCY.

(A) Except in cases of extreme public emergency, no services shall be rendered hereunder to any municipality or county unless such service is in accordance with the terms of §§ 33.03 and 33.04. The town's Chief of Police hereby is authorized to negotiate and execute contracts with the proper contracting officers of such municipalities or counties, which shall be on a reciprocal basis, thereby securing to this town the service of members of the Police Department of such municipalities or counties should an emergency arise necessitating such service here.

(B) All such contracts shall be submitted to the Town Board of Trustees for approval before effective.

(Prior Code, § 13-306) (Ord. 2009-01, passed 1-13-2009)

§ 33.06 POLICE RESERVES.

(A) *Establishment of Town Police Reserves.* There is established a Town Police Reserve which shall consist of reserve police officers. Reserve police officers shall be appointed by the Chief of Police subject to approval by the Board of Trustees, and shall serve at the pleasure of the Chief of Police. Reserve police officers may also be terminated with or without cause by a majority vote of the Board of Trustees. Termination of a reserve police officer by the Chief of Police or the Board of Trustees shall not be subject to appeal. Reserve police officers shall perform such duties as shall be required of them by the Chief of Police, town ordinances, federal, state, and county regulations, and any other action required in the maintenance of good order and public peace, only while on authorized duty.
(Prior Code, § 13-307)

(B) *Purpose of Police Reserves.* The purpose of the Police Reserve is to assist and supplement the Police Department in providing for the law enforcement duties of the town, in such a manner as prescribed and provided for in the rules and regulations established by the Chief of Police. In this regard it is understood that the Chief of Police shall be in charge of the town's Police Reserve.
(Prior Code, § 13-308)

(C) *Police Reserve qualifications.* To become a member of the town's Police Reserve, a member must meet the qualifications as set forth by the Chief of Police, and must also meet the minimum requirements for certification by the Council on Law Enforcement Education and Training, as mandated by 70 O.S. § 3311. An applicant must be at least 21 years of age, be of good moral character, and meet all qualifications required by state law.
(Prior Code, § 13-309)

(D) *Police Reserve assistance to another community.* Town Police Reserve members, except in emergency situations, shall perform police functions only when on assigned duties or called upon to perform such duties by the Chief of Police or his or her designee, or other competent authority. The Town Police Reserve members may also provide assistance to another community in accordance with §§ 33.03 and 33.04(A).

(Prior Code, § 13-310)

(Ord. 2009-01, passed 1-13-2009)

Statutory reference:

Related provisions, see 11 O.S. § 34-101

§ 33.07 SELECTION PROCEDURE.

The Chief of Police will establish procedures for the selection of the members to the Town Police Department and Town Police Reserve, which may include background investigations, review boards, current and previous employment checks, and reference checks.

(Prior Code, § 13-311) (Ord. 2009-01, passed 1-13-2009)

§ 33.08 SUPERVISION.

The Chief of Police shall have supervision of the Town Police Department and the Town Police Reserve. Since the purpose of the town police reserve is to assist and support the Town Police Department and any other law enforcement agency who may call upon the Town Police Department or the Town Police Reserve, the Town Police Reserve will be used primarily to aid and assist the members of the Town Police Department. When on authorized duty, the Police Reserve officer will be subject to the control of the member or officer of the Town Police Department.

(Prior Code, § 13-312) (Ord. 2009-01, passed 1-13-2009)

§ 33.09 DISCIPLINE.

The Chief of Police shall be responsible for the discipline of the members of the Town Police Department and the Town Police Reserve. Discipline shall include, but is not limited to, oral reprimand, written reprimand, demotion in rank, and suspension with or without pay. Discipline shall be administered as set forth in the progressive discipline policy set by the Board of Trustees. Any discipline involving a loss of wages shall be approved by the Mayor and Board of Trustees before becoming effective. The Board of Trustees shall be responsible for the discipline of the Chief of Police.

(Prior Code, § 13-313) (Ord. 2009-01, passed 1-13-2009)

§ 33.10 TRAINING.

The Chief of Police shall be responsible for implementing a program of training for the Town Police Department and the Town Police Reserve to ensure that they are properly trained in the use and carrying of weapons, the handling of prisoners, the use of town equipment, the powers of arrest, and such other matters as the Chief of Police may deem appropriate. The training of the Town Police Reserve will meet the requirements of 70 O.S. § 3311 and any other training deemed necessary or required by the Chief of Police. No member of the Town Police Reserve shall carry a weapon, make arrests, or perform other similar duties until the member has received the proper training as prescribed by the Chief of Police, and the Chief of Police determines that the member is ready for such duties as may be required of a Police Reserve officer.

(Prior Code, § 13-314) (Ord. 2009-01, passed 1-13-2009)

§ 33.11 RULE REVIEW.

The rules and regulations pertaining to the Town Police Department and the Town Police Reserve shall be subject to periodic review by the Chief of Police and the governing authority of the jurisdiction served by the Town Police Department and the Town Police Reserve.

(Prior Code, § 13-315) (Ord. 2009-01, passed 1-13-2009)

§ 33.12 EMPLOYMENT FOR OTHER LAW ENFORCEMENT AGENCY.

A member of the Town Police Department or the Town Police Reserve wanting to serve another law enforcement agency as a full time police officer or reserve police officer must have written authorization from the Chief of Police and the Board of Trustees of this town. In no such event shall the service to another law enforcement agency conflict with 51 O.S. § 6.
(Prior Code, § 13-316) (Ord. 2009-01, passed 1-13-2009)

§ 33.13 UNCLAIMED PROPERTY.*(A) Complete record required.*

(1) All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of, or charged with, being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the Chief of Police.

(2) The Chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof, the name of the person from whom it was taken and the place where it was found; and the record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

(Prior Code, § 13-501)

(B) Disposition of unclaimed property. Any unclaimed personal property, other than animals, which remains in the possession of the Chief of Police, unclaimed, or the ownership of which is not to him or her satisfactorily established, for a period of more than 30 days, shall be sold or disposed of in the manner required by law, except such personal property as in the opinion of the Mayor can be more advantageously used by some department or office of the town government.

(Prior Code, § 13-502)

(C) Property found by a private person.

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

(2) If the finder does not request return of the property to him or her within such additional ten days, then the Chief of Police shall sell the property in the manner required by law as if it had been

found by a public official or employee, or on instruction by the Town Manager deliver it to some department or office of the town government for its use.

(Prior Code, § 13-503)

(D) *Recovery by owner.* If any property is sold as herein provided, and the owner thereof takes and recovers possession of the same from the purchaser, the amount paid therefor shall be returned to the purchaser, upon verified claim being submitted and approved by the Board of Trustees.

(Prior Code, § 13-504)

Statutory reference:

Alcoholic beverages seized in violation of law, see 37A O.S. § 6-127

Disposal of liquor and gambling equipment seized by police officers, see 22 O.S. §§ 1261 et seq.

Disposal of stolen or embezzled property coming into hands of police officers, see 22 O.S. §§ 1321 et seq.

Disposition of seasonal property by Police Chief, procedures, application to destroy, see 11 O.S. § 34-104

Finders of lost goods, see 15 O.S. §§ 511 et seq.

Uniform Unclaimed Property Disposition Act, see 60 O.S. § 655 through 688

CIVIL DEFENSE

§ 33.25 PURPOSE.

A civil defense organization is created for the town to carry out preparations for and to function in the event of emergencies endangering the lives and property of the people of the town. The duties of the civil defense organization are the protection of the lives and health of the citizens and of property and property rights, both private and public, and performance of all functions necessary and incident thereto.

(Prior Code, § 13-401)

Statutory reference:

Local civil defense organizations, see 63 O.S. § 683.11

§ 33.26 DEPARTMENT ESTABLISHED.

There is established under the executive branch of the government a Department of Civil Defense which shall consist of:

(A) A Director of Civil Defense, who shall be appointed and may be the Chief of Police, removed with or without cause by the Mayor; and

(B) A Civil Defense Advisory Committee. This Committee shall consist of the Mayor as Chair and five members appointed by the Mayor and serving at his or her pleasure. The Committee shall select from its members a Vice-Chair and Secretary. It shall hold such meetings as are directed by the Mayor and its function shall be to act in an advisory capacity as needed or requested by the Mayor or the Director of Civil Defense.

(Prior Code, § 13-402)

§ 33.27 DIRECTOR; DUTIES AND POWERS.

(A) *Duties of Director.* The Director of Civil Defense shall be the executive head of the Department of the Civil Defense and shall be responsible for carrying out the civil defense program of the town. He or she shall serve without compensation but may be reimbursed for expenses incurred in the performance of his or her duties. It shall be the duty of the Director of Civil Defense as soon as practicable after his or her appointment to perfect an organization to carry out the purposes set forth in this chapter and he or she shall have all necessary power and authority to form committees or other bodies and to appoint and designate the Chair or chief officer of such bodies as may be necessary to perfect such an organization. He or she shall have further duty and responsibility to cooperate with all civil defense agencies of other governmental units, including the state and the federal government. The Director of Civil Defense is further authorized to formulate written plans and gather information and keep written record thereof to govern the functions of the civil defense organization.

(Prior Code, § 13-403)

(B) *Powers of Director in emergencies.*

(1) In the event of an enemy-caused emergency or emergency resulting from natural causes, the Director of Civil Defense, after due authorization from the Mayor, shall have the power and authority to enforce all rules and regulations relating to civil defense and, if necessary, take control of transportation, communications, stocks of fuel, food, clothing, medicine, and public utilities for the purpose of protecting the civilian population. He or she shall cooperate in every way with the activities of other governmental agencies of civil defense organizations. If required by the Mayor, the Director shall have control over any and all funds allocated from any source for the purpose of alleviating distress conditions in the town.

(2) The Director of Civil Defense and other members of the civil defense organization created by him or her shall have the power and authority to enforce the laws of the state and ordinances of the town during the period of emergency and shall at such time have the further power to make arrests for violations of such laws or ordinances.

(Prior Code, § 13-404)

§ 33.28 COMPENSATION OF MEMBERS.

All members of the civil defense organization created in this chapter shall serve without compensation. The town shall not be liable for any personal or bodily injury received by any member of such organization while acting in the line of duty.

(Prior Code, § 13-405)

IDENTITY THEFT PREVENTION PROGRAM**§ 33.40 ADOPTION.**

The Board of Trustees of the Public Works Authority (Authority) hereby adopts an Identity Theft Prevention Program in accordance with the requirements of the Fair and Accurate Credit Transaction Act, being 15 U.S.C. §§ 1681 et seq.

(Prior Code, § 2-701) (Res. 2009-04, passed 4-28-2009)

§ 33.41 OVERSIGHT COMMITTEE.

The authority appoints the Mayor and Clerk/Treasurer as the oversight committee to oversee the operation and compliance of the Authority's Identity Theft Prevention Program.

(Prior Code, § 2-702) (Res. 2009-04, passed 4-28-2009)

§ 33.42 MODIFICATIONS.

The authority authorizes the Mayor to approve modifications to the Identity Theft Prevention Program as needed to meet the needs of the Utility Department and to maintain compliance with the Fair and Accurate Credit Transaction Act, being 15 U.S.C. §§ 1681 et seq.

(Prior Code, § 2-703) (Res. 2009-04, passed 4-28-2009)

CHAPTER 34: FINANCE AND REVENUE; TAXATION

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GENERAL PROVISIONS

§ 34.01 UTILITY TAX.

(A) *Utility tax levied.* There is hereby levied and assessed an annual tax of 2% upon the gross receipts from residential and commercial sales of gas and electricity in the town, which tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by such town, all as provided by state law.

(Prior Code, § 7-401)

(B) *Not to apply to franchises.* The tax levied under this chapter shall, when levied, apply to all persons, firms, associations, or corporations engaged in business of furnishing gas or electricity within the town limits, except it shall not apply to any person, firm, association, or corporation operating under a valid franchise from the town.

(Prior Code, § 7-402)

(C) *Payment of tax.* The tax levied under this chapter on gas and electric receipts shall be levied for a term of not less than one year and shall be payable as required by the Town Board of Trustees and placed in the General Revenue Fund of the town.

(Prior Code, § 7-403)

(D) *Failure to pay tax.* Any person, firm, or corporation failing or refusing to pay such tax when levied shall be regarded as a trespasser and may be ousted from such town and in addition thereto, an

action may be maintained against such person, firm, or corporation for the amount of the tax, and all expenses of collecting same, including reasonable attorney's fees.

(Prior Code, § 7-404)

(E) *Tax constitutes lien.* The tax so imposed shall constitute a first and prior lien on all the assets located within the town of any person, firm, or corporation engaged in the business of selling gas within the town limits.

(Prior Code, § 7-405)

Statutory reference:

Utility tax authorized for municipalities, see 68 O.S. §§ 2601 et seq.

§ 34.02 TELEPHONE EXCHANGE FEE.

(A) *Fee levied on telephone exchanges.*

(1) There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the town in an amount equal to 2% of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the town to compensate the town for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the town.

(2) The annual inspection fee and charge shall be due and payable to the town on or before May 1 of each year and shall be paid into and appropriated and expended from the General Revenue Fund of the town.

(Prior Code, § 7-301)

(B) *Fee to be in lieu of other fees; taxes.*

(1) 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.

(2) However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the town is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the town.

(Prior Code, § 7-302)

Statutory reference:

Town powers to levy utility tax on gross receipts, see 68 O.S. §§ 2601 et seq.

§ 34.03 SOCIAL SECURITY.*(A) Declaration of policy to come under coverage.*

(1) It is hereby declared to be the policy and purpose of the town to extend, at the earliest date, to the eligible employees and officials of the town the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act, being 42 U.S.C. §§ 301 through 1305, and all amendments thereto, and 51 O.S. §§ 121 et seq.

(2) In pursuance of this policy, the officers and employees of the town shall take such action as may be required by applicable state or federal laws or regulations.
(Prior Code, § 2-401)

(B) Execution of agreement with state agency. The Mayor is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of division (A) above.
(Prior Code, § 2-402)

(C) Withholdings. Withholdings from salaries or wages of employees and officials for the purposes provided in division (A) above are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws or regulations, and shall be paid over to the state or federal agency designated by the laws and regulations.
(Prior Code, § 2-403)

(D) Contributions. Employer contributions shall be paid from amounts appropriated for these purposes from available funds to the designated state or federal agency in accordance with applicable state or federal laws or regulations.
(Prior Code, § 2-404)

(E) Records and reports. The Town Clerk/Treasurer shall keep such records and submit such reports as may be required by applicable state or federal laws or regulations.
(Prior Code, § 2-405)

(F) Exclusions. Excluded from this chapter authorizing the extension of Social Security benefits to town officers and employees are the following:

(1) Any authority to make any agreement with respect to any position, employee, or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the town; or

(2) Any authority to make any agreement with respect to any position, employee, or official for which compensation is on a fee basis, or any position, employee, or official not authorized to be covered by applicable state or federal laws or regulations.

(Prior Code, § 2-406)

Statutory reference:

Social Security coverage for local governments, see 51 O.S. § 125

ADMINISTRATION

§ 34.15 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

(A) All banks and all savings and loan associations in this county which are incorporated under federal or state law are hereby designated as depositories for the funds of the town.

(B) The Town Clerk/Treasurer shall deposit daily all public funds received by him or her in such banks or savings and loan associations.

(Prior Code, § 7-101)

Statutory reference:

Deposits by treasurers, designation of depositories, see 11 O.S. § 12-110

§ 34.16 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the town shall be secured by the Unit Collateral System provided by the state statutes.

(Prior Code, § 7-102)

Statutory reference:

Security for Local Public Deposits Act, see 62 O.S. §§ 517.1 et seq.

§ 34.17 CONTRACTUAL SERVICES DEFINED FOR PURCHASING.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONTRACTUAL SERVICES. Services performed for the town by persons not in the employment of the town, and may include the use of equipment or the furnishing of commodities in connection with the services under express or implied contract. **CONTRACTUAL SERVICES** shall include travel; freight; express; parcel post; postage; telephone; telegraph; utilities; rents; printing out; binding; repairs,

alterations, and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the town; and other services performed for the town by persons not in the employment of the town. (Prior Code, § 7-103)

§ 34.18 PURCHASES; APPROVAL REQUIRED.

(A) *Purchases, how made.* All purchases of supplies, materials, equipment, and contractual services for the offices, departments, and agencies of the town government, shall be made by the Town Board of Trustees or by other town personnel in accordance with purchase authorizations issued by the Town Board.

(Prior Code, § 7-104)

(B) *When prior approval by the Town Board of Trustees is required.* The Town Board may provide that certain contracts for, or purchases of, supplies, materials, equipment, or contractual services shall require the prior approval of the Town Board.

(Prior Code, § 7-105)

Statutory reference:

Purchase Order Act, see 62 O.S. §§ 310.1 et seq.

SALES TAX

§ 34.30 ADOPTION; AMENDMENTS; EFFECTIVE DATE.

(A) *Adoption; specific amendments.*

(1) This subchapter shall be known and may be cited as the “Town of Talala Sales Tax Ordinance.”

(2) Following are the sales tax ordinances passed by the town:

<i>Ord.</i>	<i>Date</i>	<i>Description/Purpose</i>
76-1	7-1-1976	2 cent sales tax levied
7-9-1990	7-9-1990, effective 7-1-1990 until 6-30-1991	No additional tax levied
7-12-1993	7-12-1993 effective 7-1-1993 until 6-30-1994	No additional tax levied

<i>Ord.</i>	<i>Date</i>	<i>Description/Purpose</i>
6-3-1997	6-3-1997 effective 7-1-1997 until 6-30-1998	No additional tax levied
02-00	2-8-2000 effective 3-14-2000	Increase in the tax from 2% to 3%

(Prior Code, § 7-201)

(B) *Effective date.* This subchapter became effective as to each cent tax after approval of a majority of the registered voters of the town voting on the ordinance in the manner prescribed by 11 O.S. § 16-112.

(Prior Code, § 7-206)

(C) *Amendments.*

(1) The people of the town, by their approval of the sales tax ordinance hereby authorize the Town Board of Trustees, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this subchapter as may be necessary or proper for efficiency and fairness.

(2) Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the town as provided by law.

(Prior Code, § 7-225)

(D) *Provisions cumulative.* The provisions of this subchapter shall be cumulative and in addition to any or all other taxing provisions of town ordinances.

(Prior Code, § 7-226)

Statutory reference:

Related provisions, see 68 O.S. §§ 2701 and 1350 et seq.

§ 34.31 DEFINITIONS.

(A) The definitions of words, terms, and phrases contained in the State Sales Tax Code, being 68 O.S. § 1352, and in 37A O.S. § 5-106, are hereby adopted by reference and made a part of this subchapter.

(B) A ***SALE*** shall include the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or otherwise occurs.

(C) The definition of **GROSS RECEIPTS** in the State Sales Tax Code, being 68 O.S. §§ 1350 et seq., is hereby augmented to contain the additional following words:

“The total retail sale price received for the sale, preparation or service of mixed beverages, ice and non-alcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation, or service occurs shall constitute the gross receipts from such transaction.”

(Prior Code, § 7-202)

§ 34.32 TAX COLLECTORS.

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

(Prior Code, § 7-203)

§ 34.33 CLASSIFICATION OF TAXPAYERS.

For the purpose of this subchapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the State Sales Tax Code, being 68 O.S. §§ 1350 et seq.

(Prior Code, § 7-204)

§ 34.34 SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the State Tax Commission pursuant to the State Sales Tax Code, being 68 O.S. §§ 1350 et seq., are, for the purpose of this subchapter, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional town permit for the same purpose.

(Prior Code, § 7-205)

§ 34.35 PURPOSE OF REVENUES.

It is the purpose of the sales taxes levied by this subchapter to provide revenues for the support of the functions of the municipal government of the town.

(Prior Code, § 7-207)

§ 34.36 TAX RATE; SALES SUBJECT TO TAX.

There is hereby levied an excise tax as set forth in § 34.30(A) upon the gross proceeds or gross receipts derived from all sales taxable under the Sales Tax Code, being 68 O.S. §§ 1350 et seq., including, but not exclusive of, the following:

(A) Tangible personal property;

(B) Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water and those specifically exempt by this subchapter;

(C) 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;

(D) (1) Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance.

(2) This shall include all services and rental charges having any connection with transmission of any messages;

(E) 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;

(F) Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camps;

(G) Service of furnishing storage or parking privileges by auto hotels and parking lots;

(H) 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;

(I) 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;

(J) 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 subchapter;

(K) 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;

(L) 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;

(M) Charges made for the privilege of entering or engaging in any kind of activity, when no admission is charged to spectators, such as tennis, racketball, or handball courts;

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

(O) 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;

(P) 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;

(Q) 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;

(R) 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 subchapter 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 subchapter;

(S) Flowers, plants, shrubs, trees, and other floral items, whether or not the same was produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders

taken by a state 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 subchapter;

(T) Tangible personal property sold to persons, peddlers, solicitors, or other salespeople, for resale where there is likelihood that this state will lose tax revenue due to the difficulty of enforcing this subchapter because of:

- (1) The operation of the business;
- (2) The nature of the business;
- (3) The turnover of independent contractors;
- (4) The lack of place of business in which to display a permit or keep records;
- (5) The lack of adequate records;
- (6) The persons are minors or transients;
- (7) The persons are engaged in service businesses; or
- (8) Any other reasonable reason.

(U) 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

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

(Prior Code, § 7-208)

§ 34.37 EXEMPTIONS.

(A) *Exemptions; sales subject to other tax.* There is hereby specifically exempted from the tax levied by this subchapter the gross receipts or gross proceeds exempted from the Sales Tax Code, being 68 O.S. §§ 1350 et seq., inclusive, but not exclusive of, and derived from:

- (1) The 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) The sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Motor Vehicle Excise Tax levied by state law has been paid;

(3) The 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 division (A)(3) shall not operate to increase or repeal the gross production tax levied by the laws of this state; and

(4) The sale of aircraft on which the tax levied pursuant to 68 O.S. §§ 6001 through 6004 has been paid.
(Prior Code, § 7-209)

(B) *Exemptions; governmental and nonprofit entities.* There are hereby specifically exempted from the tax levied by this subchapter:

(1) Sale of tangible personal property or services to the United States Government or to the state, 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, the state or any of its political subdivisions shall not be exempted from the tax levied by this subchapter, except as hereinafter provided;

(2) Sales of property to agents appointed or contracted with by agencies or instrumentalities of the United States Government if ownership and possession of such property transfers immediately to the United States Government;

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

(4) Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges, or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

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

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

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

(8) Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls shall be exempt from sales tax;

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

(10) Sales of tangible personal property or services to private institutions of higher education and private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the State Regents for Higher Education which are exempt from taxation pursuant to the provisions of I.R.C. § 501(c)(3), being 26 U.S.C. § 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for education purposes. Any person, firm, agency, or entity making purchases on behalf of any institution, agency, or subdivision in this state, shall certify in writing, on the copy of the invoice of sales ticket the nature of the purchases, and violation of this act shall be a misdemeanor as set forth in division (B)(9) above;

(11) Tuition and education fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited

as defined by the State Regents for Higher Education which are exempt from taxation pursuant to the provisions of I.R.C. § 501(c)(3), being 26 U.S.C. § 501(c)(3); and

(12) Sales of tangible personal property made by public or private school for grade levels kindergarten through twelfth grade, a public school district, public school board, public school student group or organization or public school district personnel for purposes of raising funds for the benefit of such school, school district, school board, student group, or organization. For purposes of this division (B)(12), **PUBLIC OR PRIVATE SCHOOL** shall mean any public or private institution of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this division (B)(12) shall not include sale of admission tickets or concessions at athletic events.
(Prior Code, § 7-210)

(C) *Exemptions; general.* There are hereby specifically exempted from the tax levied by this subchapter:

(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 \$1, 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 \$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 subchapter. 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 salespeople 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 the 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 or she 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 State 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 59 O.S. § 353.1;

(8) Transfers of title or possession of empty, partially filled, or filled returnable oil drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

(9) (a) Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by 7 U.S.C. §§ 2011 through 2029, as to that portion purchased with such coupons.

(b) The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program; and

(10) Nothing herein shall be construed as limiting or prohibiting the town from levying and collecting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or commercial purposes. Any sales tax levied by the town 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, § 7-211)

(D) *Exemptions; agriculture.* There are hereby specifically exempted from the tax levied by this subchapter:

(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 division (D) shall not be construed as exempting sales by florists, nurserymen, or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

(2) Livestock, including cattle, horses, mules, or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

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

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

(a) Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk, or meat for human consumption;

(b) Feed purchased in the state 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.

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

(a) Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice

or sales ticket to be retained by the vendor, that he or she 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 or she 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 or she shall further certify that his or her contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;

(c) Sales of agricultural fertilizer, pharmaceuticals, and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this subchapter, and the sales shall not be considered to be taxable sales within the meaning of the Sales Tax Code, being 68 O.S. §§ 1350 et seq. As used in this section, **AGRICULTURAL FERTILIZER**, **PHARMACEUTICALS**, and **BIOLOGICALS** mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals;

(d) Sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This section shall not be construed as exempting from sales tax seed which is packaged and sold for 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 a living human, 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 or her farming occupation. The vendor shall certify to the State 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 State Tax Commission shall revoke the vendor's sales tax permit.

(6) Sale of farm machinery, repair parts thereto, or fuel, oil, lubricants, and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation, or irrigation of any livestock, poultry, agricultural, or dairy products produced from such lands. Each purchaser of farm machinery, repair parts thereto or fuel must certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he or she 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 or her farming occupation. The vendor shall certify to the State 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 State Tax Commission shall revoke the vendor's sales tax permit.

(Prior Code, § 7-212)

(E) *Exemptions; manufacturers.* There are hereby specifically exempted from the tax levied by this subchapter:

(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 the state, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the state. 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 subchapter. The term **MANUFACTURING PLANTS** means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(4) Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers

in this state to any person who is not regularly engaged in the business of selling, reselling, or otherwise transferring empty or filled containers shall be taxable under this code. This exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

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

(6) (a) Machinery, equipment, fuels, and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of controlled industrial waste at treatment facilities specifically permitted pursuant to the Controlled Industrial Waste Disposal Act, being 27A O.S. §§ 2-7-101 et seq., and operated at the place of waste generation, or facilities approved by the State Department of Health for the cleanup of a site of contamination.

(b) The term controlled industrial waste may include low-level radioactive waste for the purpose of this division (E).
(Prior Code, § 7-213)

(F) *Exemptions; corporations and partnerships.* There are hereby specifically exempted from the tax levied in this subchapter:

(1) The transfer of tangible personal property, as follows:

(a) From one corporation to another corporation pursuant to a reorganization. As used in this division (G)(1) 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 or her 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 or her 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.

(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, § 7-214)

Penalty, see § 10.99

§ 34.38 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 State Sales Tax Code, being 68 O.S. §§ 1350 et seq.

(Prior Code, § 7-215)

§ 34.39 PAYMENT OF TAX; BRACKETS; DEBT.

(A) *Payment of tax brackets.*

(1) 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.

(2) The bracket system for the collection of the town sales tax by the Tax Collector shall be the same as is hereafter adopted by the agreement of the town and the Tax Collector, in the collection of both the town sales tax and the state sales tax.

(Prior Code, § 7-216)

(B) *Tax constitutes debt.* The taxes, penalty, and interest due under this subchapter 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, § 7-217)

Penalty, see § 10.99

§ 34.40 VENDOR'S DUTY TO COLLECT TAX.

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

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

(C) A vendor, as defined hereunder, who willfully or intentionally fails, neglects, or refuses to collect the full amount of the tax levied by this subchapter, or willfully or intentionally fails, neglects, or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatever 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 or she is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in § 10.99.

(D) (1) Any sum or sums collected or required to be collected in accordance with this subchapter shall be deemed to be held in trust for the town.

(2) Any person, firm, corporation, joint venture, or association that willfully or intentionally fails, neglects, or refuses to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in § 10.99

(Prior Code, § 7-218) Penalty, see § 10.99

§ 34.41 RETURNS AND REMITTANCES; DISCOUNTS; FRAUDULENT RETURNS.

(A) *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 State Sales Tax Code, being 68 O.S. §§ 1350 et seq., for collection of state sales taxes.

(Prior Code, § 7-219)

(B) *Fraudulent returns.*

(1) In addition to all civil penalties provided by this subchapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this subchapter.

(2) Violating this section shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to a fine as provided in § 10.99.

(Prior Code, § 7-223)

§ 34.42 INTEREST AND PENALTIES; DELINQUENCY; WAIVER.*(A) Interest and penalties; delinquency.*

(1) Title 68 O.S. § 217 is hereby adopted and made a part of this subchapter, 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 subchapter.

(2) 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 subchapter shall cause such tax to be delinquent. In addition, if the delinquency continues for a period of five days, the taxpayer shall forfeit his or her claim to any discount allowed under this subchapter.

(Prior Code, § 7-220)

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

(Prior Code, § 7-221)

§ 34.43 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

(A) Refund of erroneous payment of the town sales tax herein levied may be made to any taxpayer making the erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in 68 O.S. § 227.

(B) To accomplish the purpose of this section, the applicable provisions of 68 O.S. § 227 are hereby adopted by reference and made a part of this subchapter.

(Prior Code, § 7-222) Penalty, see § 10.99

§ 34.44 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the town sales tax is legislatively recognized and declared, and to protect the same the provisions of the State Sales Tax Code, being 68 O.S. §§ 1350 et seq., and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the town sales tax as if here set forth in full.

(Prior Code, § 7-224)

*USE TAX***§ 34.55 GENERAL PROVISIONS.**

(A) *Provisions cumulative.* The provisions hereof shall be cumulative, and in addition to any and all other taxpaying provisions of municipal resolutions and regulations.

(Prior Code, § 7-514)

(B) *Provisions severable.* The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence, or clause of this subchapter, 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.

(Prior Code, § 7-515)

(C) *Citation.* This subchapter shall be known and cited as the “Talala, Oklahoma Use Tax Resolution.”

(Prior Code, § 7-520)

(Res. 2009-03, passed 4-14-2009)

§ 34.56 EXCISE TAX ON STORAGE, USE, OR OTHER CONSUMPTION OF TANGIBLE PERSONAL PROPERTY LEVIED.

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

(B) 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 the state; 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 maintenance of other service. Any person liable for payment of the use tax authorized herein, may deduct from such use tax and county 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 levied on the sale of such goods or services.

(Prior Code, § 7-501)

(Res. 2009-03, passed 4-14-2009)

§ 34.57 TIME DUE; RETURNS; PAYMENT; DEBT.

(A) *Time due; returns; payment.* The tax levied by this subchapter 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, being 68 O.S. §§ 1401 through 1411.

(Prior Code, § 7-503)

(B) *Tax constitutes debt.* Such taxes, penalty, or interest due hereunder shall at all times constitute a prior, superior, and paramount claim as against the claims of unsecured creditors, and may be collected by suit as with any other debt.

(Prior Code, § 7-504)

(Res. 2009-03, passed 4-14-2009)

§ 34.58 COLLECTION OF TAX.

(A) *Collection of tax by retailer or vendor.* Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in the town, shall, at the time of making such sales, collect the use tax levied by this subchapter from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the State Tax Commission, if said 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 or her agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this municipality.

(Prior Code, § 7-505)

(B) *Collection of tax by retailer or vendor not maintaining a place of business within the state or both within and without state; permits.* The State Tax Commission may, at its discretion, upon application, authorize the collection of the use 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 businesses both within and without this state 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 said 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 use tax upon all tangible, personal property sold to his or her knowledge for use within this municipality. Such authority and permit may be canceled when, at any time, said Tax Commission considers that such use tax can more effectively be collected from the person using such property in this municipality; provided, however, delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipal sales tax at the

point of delivery and the tax shall be collected and reported under the taxpayer's sales tax permit number accordingly.

(Prior Code, § 7-506)

(Res. 2009-03, passed 4-14-2009)

§ 34.59 REVOKING PERMITS.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, authorized to collect the use tax herein levied, fails to comply with any of the provisions of this subchapter or the State Use Tax Code, being 68 O.S. §§ 1401 through 1411, or any order, rules or regulations of the State Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. § 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 the 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 subchapter, the State Use Tax Code, or any order, rules, or regulations of the State Tax Commission.

(Prior Code, § 7-507)

(Res. 2009-03, passed 4-14-2009)

§ 34.60 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES.

Returns and remittances of the use tax herein levied and collected shall be made to the State Tax Commission at the time and in the manner, form, and amount prescribed for returns and remittances required by the State Use Tax Code, being 68 O.S. §§ 1401 through 1411; remittance of use tax collected hereunder shall be subjected to the same discount as may be allowed by said code for the collection of state use taxes.

(Prior Code, § 7-508) (Res. 2009-03, passed 4-14-2009)

§ 34.61 INTEREST AND PENALTIES; DELINQUENCY; WAIVER.

(A) *Interest and penalties; delinquency.*

(1) Title 68 O.S. § 217, 1998 supplement, is hereby adopted and made a part of this subchapter, 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 use tax levied by this subchapter; provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of use tax in the time and manner required by this subchapter shall cause such tax to be

delinquent. In addition, if such delinquency continues for a period of five days, the retailer or vendor shall forfeit his or her claim to any discount allowed under this subchapter.

(Prior Code, § 7-509)

(B) *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 use 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.S. § 220, 1998; to accomplish the purposes of this section, the applicable provisions of said § 220 are hereby adopted by reference and made a part of this subchapter.

(Prior Code, § 7-510)

(Res. 2009-03, passed 4-14-2009) Penalty, see § 10.99

§ 34.62 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

Refund of erroneous payment of the municipal 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 provided for administration of the state use tax as set forth in 68 O.S. § 227, 1998; to accomplish the purpose of this section the applicable provisions of said § 227 are hereby adopted by reference and made a part of this subchapter.

(Prior Code, § 7-511)

(Res. 2009-03, passed 4-14-2009)

§ 34.63 FRAUDULENT RETURNS.

(A) In addition to all civil penalties provided by this subchapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any use tax, or portion thereof, rightfully due under this subchapter, shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than \$200.

(B) Each day of noncompliance with this subchapter shall constitute a separate offense.

(Prior Code, § 7-512) (Res. 2009-03, passed 4-14-2009)

§ 34.64 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipal use tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. § 205, 1998, of the State Use Tax Code, being 68 O.S. §§ 1401 through 1411, and each subsection

thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal use tax as if herein set forth in full.

(Prior Code, § 7-513) (Res. 2009-03, passed 4-14-2009)

§ 34.65 DEFINITIONS.

The definitions of words, terms, and phrases contained in the State Tax Code, 68 O.S. § 1401, 1991 and 1998 supplement, are hereby adopted by reference and made a part of this subchapter; in addition thereto, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TAX COLLECTOR. The department of the municipality, or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the use tax herein levied.

TOWN. The Town of Talala, Oklahoma.

TRANSACTION. Sale.

(Prior Code, § 7-516) (Res. 2009-03, passed 4-14-2009)

§ 34.66 CLASSIFICATION OF TAXPAYERS.

For purpose of this subchapter, the classification of taxpayers hereunder shall be as prescribed by state law for the purpose of the State Use Tax Code, being 68 O.S. §§ 1401 through 1411.

(Prior Code, § 7-517) (Res. 2009-03, passed 4-14-2009)

§ 34.67 SUBSISTING STATE PERMITS.

All valid and subsisting permits to do business issued by the State Tax Commission pursuant to the State Tax Code, being 68 O.S. §§ 101 et seq., are, for the purpose of this subchapter, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional municipal permit for the same purpose.

(Prior Code, § 7-518) (Res. 2009-03, passed 4-14-2009)

§ 34.68 PURPOSES OF REVENUES.

It is hereby declared to be the purpose of this subchapter to provide revenues for the support of the functions of the municipal government of the town, and any and all revenues derived hereunder may be

expended by the Town Board of Trustees for any purpose for which funds may be lawfully expended and authorized.

(Prior Code, § 7-519) (Res. 2009-03, passed 4-14-2009)

§ 34.69 EXEMPTIONS.

The provisions of this subchapter shall not apply:

(A) In respect to the use of an article of tangible, personal property brought into the municipality of 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 State Use Tax Code and this subchapter, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of this state or some other state, municipality, or county of the United States. If any article of tangible personal property has already been subjected to a tax law by this state or any other state or county in respect to its sale or use, in an amount less than the tax imposed by both the State Use Tax Code, being 68 O.S. §§ 1401 through 1411, and this subchapter, the provisions of this subchapter shall also apply to it by a rate measured by the difference only between the rate provided by both the State Use Tax Code and this subchapter, 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, municipality, or county, if that state, municipality, or county does not grant like credit for taxes paid in the state and the municipality;

(D) In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the municipality which machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to the taxation under the Sales Tax Code of the town, being 68 O.S. §§ 1350 et seq. 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 of the town, being 68 O.S. §§ 1350 et seq.;

(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 sum of any article of tangible personal property used, or to be used, by commercial airlines or railroads; or

(H) In respect to livestock purchased, outside the state and brought into this municipality for feeding or breeding purposes, and which is later resold.

(Prior Code, § 7-502) (Res. 2009-03, passed 4-14-2009)

§ 34.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any violation of §§ 34.55 through 34.69 shall be liable for a fine not to exceed \$200 per day, or the maximum legal limit.

(Prior Code, § 7-521) (Res. 2009-03, passed 4-14-2009)

CHAPTER 35: TOWN POLICIES

Section

Marijuana on Municipal Property

- 35.01 Definitions
- 35.02 Prohibited conduct
- 35.03 Required signs
- 35.04 Enforcement

- 35.99 Penalty

MARIJUANA ON MUNICIPAL PROPERTY

§ 35.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INDOOR AREA. Any enclosed area or area visited by employees or the public, at all times, regardless of whether work is being performed. **INDOOR AREA** includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, as well as all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like.

MARIJUANA PRODUCT. Any product that contains marijuana and is intended for human consumption. **MARIJUANA PRODUCT** does not include any product approved by the United States Food and Drug Administration for sale as a marijuana cessation product.

MUNICIPAL PROPERTY. All buildings, indoor areas, and outdoor areas, including, but not limited to, recreational areas, and other property, or portions thereof, owned or operated by the town, including, but not limited to, vehicles and equipment owned by the municipality.

OUTDOOR AREA. Any area that is not an indoor area and includes outdoor recreational areas.

SMOKING. The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

TOBACCO and/or **MARIJUANA PRODUCTS.** Any product that contains tobacco and is intended for human consumption. **TOBACCO** and/or **MARIJUANA PRODUCTS** does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product.

VAPOR PRODUCT. Any noncombustible product that may or may not contain nicotine, that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, and that can be used to product a vapor in a solution or other form. **VAPOR PRODUCT** shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution that may or may not contain nicotine and that is intended to be used with or in an electronic cigarette, electronic cigarillo, or electronic device.

(Ord. 2019-09, passed 10-8-2019)

§ 35.02 PROHIBITED CONDUCT.

(A) Smoking tobacco and/or marijuana products is prohibited in all places which smoking tobacco and/or marijuana products is prohibited by state law.

(B) Using tobacco and/or marijuana products or vapor products is prohibited on all municipals property, indoor and outdoor, including parks and recreational areas.

(C) Nothing in this subchapter prohibits any person or entity from prohibiting the use of tobacco and/or marijuana products or vapor products on his or her property, even if the use of tobacco and/or marijuana products or vapor products is not otherwise prohibited in that area.

(D) No person or entity shall knowingly permit the use of tobacco and/or marijuana products or vapor products in an area that is under the control of that person or entity and in which the use of tobacco and/or marijuana products or vapor products is prohibited by law.

(E) (1) No person or entity shall permit the placement of ash receptacles, such as ash trays or ash cans, within an area under the control of that person or entity and in which smoking is prohibited by law.

(2) However, the presence of ash receptacles shall not be a defense to a charge of the use of tobacco and/or marijuana products or vapor products in violation of any provision of this subchapter.

(F) No person shall dispose of tobacco and/or marijuana products or vapor product waste within an area in which the use of tobacco and/or marijuana products or vapor product waste is prohibited.

(G) No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this subchapter.

(Ord. 2019-09, passed 10-8-2019)

§ 35.03 REQUIRED SIGNS.

(A) The person or entity that has legal or de facto control of an area in which the use of tobacco and/or marijuana products or vapor products is prohibited by this subchapter shall post a clear, conspicuous, and unambiguous sign at each point of entry to the area, and in at least one other conspicuous point within the area.

(B) For restrictions on the use of tobacco products or vapor products in indoor areas, the sign or decal shall be at least four inches by two inches in size and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided. For restrictions on the use of tobacco products or vapor products in outdoor areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size, with lettering of at least one inch, and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided.

(C) For purposes of this section, the Town Board or an appointed designee shall be responsible for the posting of signs on municipal property, both indoor and outdoor.

(D) Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of the use of tobacco products or vapor products in violation of any other provision of this subchapter.

(Ord. 2019-09, passed 10-8-2019)

§ 35.04 ENFORCEMENT.

(A) Enforcement of this subchapter shall be the responsibility of the Police Department. In addition, any peace officer or code enforcement official may enforce this subchapter.

(B) The possession of a lighted tobacco and/or marijuana products in violation of this subchapter is a nuisance.

(C) The remedies provided by this subchapter are cumulative and in addition to any other remedies available at law or in equity.

(D) In addition to other remedies provided by this subchapter or by other law, any violation of this subchapter regarding tobacco and/or marijuana products or vapor product use may be remedied by the Town Board, including, but not limited to, administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.
(Ord. 2019-09, passed 10-8-2019)

§ 35.99 PENALTY.

(A) Any person violating any of the provisions of this chapter shall be punished as provided in § 10.99 of this code of ordinances.

(B) (1) Any person who knowingly violates §§ 35.01 through 35.04 shall be punished by a citation and fine of not less than \$10 for the first offense and not more than \$25 for each offense after in accordance with §§ 35.01 through 35.04.

(2) Each instance of tobacco and/or marijuana products or vapor product use in violation of §§ 35.01 through 35.04 shall constitute a separate violation.

(3) Causing, permitting, aiding, abetting, or concealing a violation of any provision of §§ 35.01 through 35.04 regarding tobacco and/or marijuana products or vapor product use shall also constitute a violation of §§ 35.01 through 35.04.
(Ord. 2019-09, passed 10-8-2019)