

Finance and Taxation

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FINANCE AND TAXATION

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SECTION 7-101 INVESTMENTS.

The town clerk-treasurer or any other person authorized to invest public monies shall invest the same in those investments authorized by the town board of trustees or authorized by state law in a manner authorized by either or both such board of trustees and statutes.

SECTION 7-102 DEPOSITORIES DESIGNATED, DEPOSIT OF FUNDS.

All banks and financial institutions as are designated by the town board of trustees shall be designated as depositories for the funds of the town. The town clerk-treasurer shall deposit daily all public funds received by him in these banks. Funds may be transferred from one depository to another upon direction of the clerk-treasurer.

SECTION 7-103 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the town shall be secured by the unit collateral system provided by state law. The provisions of the state law on the unit collateral system, Sections 516.1 through 516.10 of Title 62 of the Oklahoma Statutes, are hereby adopted insofar as they are applicable to the town.

SECTION 7-104 CONTRACTUAL SERVICES DEFINED FOR PURCHASING.

“Contractual services” for the purposes of this chapter, shall mean 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 provided under express or implied contract. Contractual services shall include travel, freight, postage, telephone, utilities, rents, printing, binding, repairs, alterations and maintenance of buildings, equipment, streets and bridges, and other services performed for the town by persons not in the employment of the town.

SECTION 7-105 PURCHASING PROCEDURE.

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

B. All purchases of supplies, materials, equipment and contractual services, and any sales by the town, shall be made by the Board of Trustees or pursuant to authorizations granted by it, and subject to its supervision and control. The Board of Trustees may authorize purchasing authority for officers and employees by motion or resolution, except that purchasing authority not requiring prior approval shall be enacted by resolution and specifying the limits of the purchasing authority granted.

C. In order to provide assurance against unauthorized or illegal payment of invoices, the town adopts the following safeguards concerning payment of invoices and purchases:

1. All checks, warrants, or other instrument or method of disbursement through the federal reserve system issued by the Town shall contain the signature of the town treasurer and another authorized signer on the account from which the funds are being remitted.

2. In lieu of reviewing actual invoices, all trustees shall be provided a claims list, detailing the date of invoice, amount, and vendor. No payment shall be made until the claim or claims list has been approved by the Board of Trustees. Upon request, the actual invoice shall be made available to any trustee making the request.

3. Claims shall not be placed on the claims list unless initial approval and recommended payment of the claim has been made by the Town Administrator, Mayor, or department head, and until determination has been made that sufficient funds have been appropriated for the purchase.

SECTION 7-106 EMERGENCY PURCHASES.

In those instances in which the Town Administrator or Mayor determines that a bona fide emergency exists as defined by Oklahoma State Statutes, and that an immediate outlay of funds is necessary due to the emergency, the Town Administrator or Mayor is authorized to make purchases up to six thousand dollars (\$6,000.00). Any such purchases shall be thereafter approved by the Town Board of Trustees.

SECTION 7-107 COMPETITIVE BIDDING.

Before the town makes any purchase of or contract for, supplies, materials, equipment or contractual services, in excess of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) in a single transaction, except as otherwise provided below, the

Town shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation, or invitation to bid, giving specifications therefor, or give them an opportunity to bid; or publish notice of the proposed purchase in a newspaper of general circulation within the town. The Town shall favor a person, firm or corporation in the town when this can be done without additional cost to the town; but the Town shall submit requests for quotation to those outside the town when this may be necessary to secure bids or create competitive conditions, or when the Town Administrator believes that by doing so a savings for the Town can be made. All bids received shall be sealed and shall be opened at a designated time and place. The Board of Trustees may repeatedly reject all bids, and may again submit to the same or other persons, firms or corporations the request for quotation, or invitation to bid, or again publish notice of the proposed purchase. The Town may purchase from the bidder whose bid is most advantageous to the town, considering price, quality, date of delivery and so on, but in any event, accepting the bid or bids most advantageous to the Town. **Provided, however, that the provisions of the Public Competitive Bidding Act, 61 O.S. 101, et seq., shall be followed in those instances which require compliance with said statute.**

SECTION 7-108 WHEN COMPETITIVE BIDDING IS NOT REQUIRED.

The following may be purchased without the requirement of competitive bidding:

1. Supplies, materials, equipment or contractual services whose cost does not exceed SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) in a single transaction and for which competitive bidding is not required by law;
2. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever purchased;
3. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including government surplus;
4. Contractual services, including, but not limited to, natural gas, electricity, telephone service, purchased from a public utility at a price or rate determined by the Oklahoma Corporation Commission or other governmental authority;
5. Supplies, materials, equipment or contractual services when purchased at a price not exceeding a price set therefore by the state purchasing agency or any other state agency hereafter authorized to regulate prices for items purchased by the state, whether such price is determined by contract negotiated with a vendor or otherwise; and
6. Contractual services of a professional nature, such as engineering, architectural, medical or legal, unless competitive bidding is required by applicable law or regulation.

SECTION 7-109 SALE OR DISPOSAL OF SURPLUS PROPERTY.

No surplus or obsolete supplies, materials or equipment of any value may be sold until the Town Board of Trustees have declared them obsolete or surplus. The Town Administrator, Mayor, or designee shall advertise the surplus or obsolete property for sale and give notice thereof in such a manner as deemed necessary to adequately reach prospective buyers to give them an opportunity to bid on the property. The Town may reject any and all bids and advertise or give notice again. The Town shall sell surplus or obsolete property to the highest bidder. If property is declared surplus or obsolete that does not have a value or receives no bids for purchase, the Board of Trustees may direct disposal of the property in the manner deemed most appropriate and beneficial to the town. The Town Administrator or Mayor, with the approval of the Board of Trustees, may donate surplus or obsolete property to another governmental entity.

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Section 7-222	Tax records confidential.
Section 7-223	Provisions cumulative.
Section 7-224	Amendments to chapter.

CITATION OF CHAPTER. SECTION 7-201

This chapter shall be known and may be cited as the “Town of Sperry Sales Tax Ordinance”.

SECTION 7-202 DEFINITIONS.

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

B. The term “tax collector,” as used herein, shall mean the department of the town or the official agency of the state duly designated according to law or contract, as authorized by law to administer the collection of the tax herein levied.

SECTION 7-203 CLASSIFICATION OF TAXPAYERS.

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

SECTION 7-204 SUBSISTING STATE PERMITS.

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

SECTION 7-205 PURPOSE OF REVENUES; DISPOSITION OF PROCEEDS.

It is hereby declared to be the purpose of the revenues generated by the sales taxes levied herein to provide revenues for the support of the functions of the municipal government of the town. Any and all revenues derived hereunder may be expended by the governing body of the town for any purpose for which funds may be lawfully expended as authorized by the ordinances of the town and the statutes of the state.

SECTION 7-206 TAX RATE; SALES SUBJECT TO TAX.

There is hereby levied an excise tax of three percent (3%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including, but not exclusive of, the following:

1. Tangible personal property;
2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water and those specifically exempt by this chapter;
3. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, pullman car companies, airlines and all other means of transportation for hire;
4. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
5. Printing or printed matter of all types, kinds, and characters and the service of printing or over-printing, including the copying of information by mimeograph or multigraph or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information on magnetic tapes furnished by customers;

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

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

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

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

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

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

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

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

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

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

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

17. Gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair or otherwise service the rented or

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

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

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

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

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

21. Any taxable services and tangible personal property, including materials, supplies and equipment sold to contractors for the purpose of developing and improving

real estate even though such real estate is intended for resale as real property are hereby declared to be sales to consumers or users and taxable; and

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

23. Retail sales of medical marijuana, medical marijuana-derived products, and medically-related paraphernalia.

SECTION 7-207 EXEMPTIONS; SALES SUBJECT TO OTHER TAX.

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

1. Sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax levied by state law has been paid;

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

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

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

SECTION 7-208 EXEMPTIONS; GOVERNMENTAL AND NONPROFIT ENTITIES

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

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of the state; provided, all sales to contractors in connection with the performance of any contract with the United States Government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this chapter, except as hereinafter provided;

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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 board of trustees of organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A and the Campfire Girls shall be exempt from sales tax;

9. Sale of tangible personal property or services to any county, municipality, public school district, the institutions of the Oklahoma system of higher education and the Grand River Dam Dam Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any

person who wrongfully or erroneously certifies that purchases are for any of the above named subdivision or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of the sales tax involved or incarcerated for not more than sixty (60) days or both;

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

11. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Section 501(c)(3) of the Internal Revenue Code; and

12. Sales of tangible personal property made by public or private school for grade levels kindergarten through twelfth grade, a public school district, public school board, public school student group or organization or public school district personnel for purposes of raising funds for the benefit of such school, school district, school board, student group or organization. For purposes of this paragraph, "public or private school" shall mean any public or private institution of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall not include sale of admission tickets or concessions at athletic events.

SECTION 7-209 EXEMPTIONS; GENERAL.

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

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicab;

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

4. Sales for resale to persons engaged in the business of re-selling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this chapter. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit;

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

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

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

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

9. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the State of Oklahoma in the federal food stamp 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.

SECTION 7-210 EXEMPTIONS; AGRICULTURE.

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

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

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

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

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

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

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;
- b. Feed purchased in Oklahoma for the purpose of being fed to and

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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 is so engaged in farming or ranching and that the material purchased will be used only in such business;
- b. Sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that he is engaged in the business of applying such materials to lands owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which the materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;

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

retained by the vendor, that he is engaged in farming or ranching and that the farm machinery, repair parts thereto or fuel will be used only in farming or ranching. The exemption provided for herein shall not apply to motor vehicles. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor, and, upon violation and conviction for a second offense the Oklahoma Tax Commission shall revoke the vendor's sales tax permit.

SECTION 7-211 EXEMPTIONS; MANUFACTURERS.

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

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

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

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

4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this code. And, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

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

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

SECTION 7-212 EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS.

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

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

2. Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the state sales or use tax has previously been paid on such tangible personal property.

SECTION 7-213 TAX DUE AND PAYABLE.

The tax levied under this chapter shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the sales tax law of the state.

SECTION 7-214 PAYMENT OF TAX; BRACKETS.

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

B. The bracket system for the collection of the town sales tax by the tax collector shall be as the same 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.

SECTION 7-215 TAX CONSTITUTES PRIOR CLAIM.

Taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

SECTION 7-216 VENDOR'S DUTY TO COLLECT TAX.

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

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

C. No vendor shall willfully or intentionally fail, neglect or refuse to collect the full amount of the tax levied; or willfully or intentionally fail, neglect or refuse to comply with the provisions of this chapter; or remit or rebate to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied; or make in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever.

SECTION 7-217 RETURNS AND REMITTANCES; DISCOUNTS.

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

SECTION 7-218 INTEREST AND PENALTIES; DELINQUENCY; DISCOUNT FORFEITURE.

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

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

C. The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent.

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

SECTION 7-219 WAIVER OF INTEREST AND PENALTIES.

A. The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the town tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes.

B. To accomplish the purposes of this section, the applicable provisions of Section 220 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter.

SECTION 7-220 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

A. Refund or erroneous payment of the town sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes.

B. To accomplish the purposes of this section, the applicable provisions of Section 227 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter.

SECTION 7-221 FAILURE TO FILE; FRAUDULENT RETURNS; PENALTIES.

A. No person shall:

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

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

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

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

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

SECTION 7-222 TAX 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 Section 205 of Title 68 of the Oklahoma Statutes of the state sales tax code, and all subsections thereof, are hereby adopted by reference and made fully effective and applicable to administration of the town sales tax as if herein set forth in full.

SECTION 7-223 PROVISIONS CUMULATIVE.

The provisions of this chapter shall be cumulative and in addition to any and all other taxing provisions of town ordinances.

SECTION 7-224 AMENDMENTS TO CHAPTER.

The Board of Trustees, by ordinance duly enacted, is authorized to make such administrative and technical changes or additions in the method and manner of

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administration and enforcing this chapter as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed except as provided by law.

CHAPTER 3

USE TAX

Section 7-301	Citation and Codification
Section 7-302	Definitions
Section 7-303	Excise Tax on Storage, Use or Other Consumption of Intangible, Personal Property Levied
Section 7-304	Purpose of Revenues
Section 7-305	Exemptions
Section 7-306	Time When Due, Returns, Payment
Section 7-307	Tax Constitutes Debt
Section 7-308	Collection of tax by retailer or vendor
Section 7-309	Collection of Tax by Retailer or Vendor Not Maintaining a Place of Business within State or Both Within and Without State, Permits
Section 7-310	Revoking Permits
Section 7-311	Remunerative Deductions Allowed Vendors or Retailers of Other States
Section 7-312	Interest and Penalties, Delinquency
Section 7-313	Waiver of Interest and Penalties
Section 7-314	Erroneous Payments, Claim for Refund
Section 7-315	Fraudulent Returns
Section 7-316	Records Confidential
Section 7-317	Subsisting State Permits
Section 7-318	Provisions Cumulative
Section 7-319	Provisions Severable
Section 7-320	Classification of Taxpayers

SECTION 7-301 CITATION AND CODIFICATION.

This chapter shall be known and may be cited as "Town of Sperry Use Tax Ordinance" (Ord. No. 2003-3, 12/15/03).

SECTION 7-302 DEFINITIONS.

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

1. Town shall mean the Town of Sperry, Oklahoma.
2. Transaction shall mean sale.

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

SECTION 7-303 EXCISE TAX ON STORAGE, USE OR OTHER CONSUMPTION OF TANGIBLE, PERSONAL PROPERTY LEVIED.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on the storage, use or other consuming within the municipality of such property at the rate of three percent (3%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property, intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services. (Ord. No. 2003-3, 12/15/03)

SECTION 7-304 PURPOSE OF REVENUES.

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

SECTION 7-305 EXEMPTIONS.

The provisions of this chapter shall not apply:

1. In respect to the use of an article of tangible, personal property brought into the municipality by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;
2. In respect to the use of tangible, personal property purchased for resale before being used;

3. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the Town of Sperry Use Tax Ordinance, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the Town of Sperry Use Tax Ordinance, the provisions of this Ordinance shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the Town of Sperry Use Tax Ordinance, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if not state or municipality does not grant like credit for taxes paid in Oklahoma and the municipality;

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

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

6. 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;

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

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

SECTION 7-306 TIME WHEN DUE, RETURNS, PAYMENT.

The tax levied by this chapter is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma. (Ord. No. 2003-3, 12/15/03)

SECTION 7-307 TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (Ord. No. 2003-3, 12/15/03)

SECTION 7-308 COLLECTION OF TAX BY RETAILER OR VENDOR.

Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this city shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Oklahoma Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in the town. (Ord. No. 2003-3, 12/15/03)

SECTION 7-309 COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING A PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND WITHOUT STATE, PERMITS.

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible, personal property for use in this municipality and by the out-of- state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this municipality. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this municipality. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipality sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. No. 2003-3, 12/15/03)

SECTION 7-310 REVOKING PERMITS.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails

to comply with any of the provisions of this chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission. (Ord. No. 2003-3, 12/15/03)

SECTION 7-311 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES.

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the code for the collection of state use taxes. (Ord. No. 2003-3, 12/15/03)

SECTION 7-312 INTEREST AND PENALTIES, DELINQUENCY.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in the amounts as herein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this chapter. (Ord. No. 2003-3, 12/15/03)

SECTION 7-313 WAIVER OF INTEREST AND PENALTIES.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purposes of this section the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter. (Ord. No. 2003-3, 12/15/03)

SECTION 7-314 ERRONEOUS PAYMENTS, CLAIM FOR REFUND.

Refund of erroneous payment of the municipality Use Tax herein levied may be made by any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes, and to

accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter. (Ord. No. 2003-3, 12/15/03)

SECTION 7-315 FRAUDULENT RETURNS

In addition to all civil penalties provided by this chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00) and costs. Each day of noncompliance with this chapter shall constitute a separate offense. (Ord. No. 2003-3, 12/15/03)

SECTION 7-316 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipality use tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipality use tax as is herein set forth in full. (Ord. No. 2003-3, 12/15/03)

SECTION 7-317 SUBSISTING STATE PERMITS.

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

SECTION 7-318 PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the municipality ordinances. Ord. No. 2003-3, 12/15/03

SECTION 7-319 PROVISIONS SEVERABLE.

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

SECTION 7-320 CLASSIFICATION OF TAXPAYER.

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

CHAPTER 4

TELEPHONE EXCHANGE AND 911 EMERGENCY FEES

Section 7-401 Inspection fee and service charge.
Section 7-402 911 Emergency service fee.

SECTION 7-401 INSPECTION FEE AND SERVICE CHARGE.

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

B. The amount of the inspection fee and service charge shall be an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the town.

C. The inspection fee and charge shall be due and payable to the town on or before the first day of May of each year and shall be paid into and appropriated and expended from the general revenue fund of the town.

D. During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied by this chapter shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments except ad valorem taxes. This section is not intended to extinguish or abrogate any existing arrangement whereby the town is permitted to use the underground conduit, duct space or pole contracts of the company for the fire alarm and police call systems of the town, or either of them.

SECTION 7-402 911 EMERGENCY SERVICE FEE.

A. The definitions of terms and phrases used in this section shall be as defined in Section 2813 of Title 63 of the Oklahoma Statutes.

B. There is hereby imposed on the tariff charges for telephone companies providing service within the corporate limits of the Town of Sperry, Oklahoma, a fee of five percent (5%). Three percent (3%) of the proceeds of the fee shall be utilized to pay for the operation of emergency telephone service as specified in Section 2813 of Title 63 of the Oklahoma Statutes. Two percent (2%) of the proceeds of the fee shall be utilized for the purchase of ancillary communication systems necessary to pass the reported emergency to the appropriate emergency service and personnel. The fee imposed hereby shall remain in effect until such time as the Board of Trustees of the Town of Sperry, Oklahoma, deems necessary, except modified or extended by ordinance or law.

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C. No such fee shall be imposed upon more than one hundred (100) exchange access lines or their equivalent at one location per user.

D. The fee shall be collected monthly by the local exchange telephone company and forwarded within thirty (30) days of the close of the month in which such fee was collected to the

E. Revenues derived from the fee hereby imposed shall be utilized for engineering, installation, administration and other recurring and one-time costs necessary to implement, administer, operate and maintain emergency nine-one-one telephone service in the town.

F. The chief of police or any other official designated by the town is authorized to administer the 911 telephone service in the town.

G. The chief of police or other person charged with administration of the emergency telephone service is authorized to cooperate with other governing bodies who may impose a similar fee and who wish to participate in a regional 911 service.

H. Any local exchange telephone company providing service within the town shall be entitled to retain as an administrative fee a maximum of three percent (3%) of the fee imposed and collected pursuant to this section.

CHAPTER 5

UTILITY TAX

Section 7-501	Utility fee levied.
Section 7-502	Fee to be in-lieu of franchise.
Section 7-503	Payable quarterly.
Section 7-504	Tax constitutes lien.
Section 7-505	Ouster for failure to pay.

SECTION 7-501 UTILITY FEE LEVIED.

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of electricity in the town, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the town, all as provided by Sections 2601 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 7-502 FEE TO BE IN-LIEU OF FRANCHISE.

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

SECTION 7-503 PAYABLE QUARTERLY.

The tax levied under this chapter shall remain in effect until repealed and shall be payable quarterly on the 15th day of January, April, July and October. The tax shall be placed in the general revenue fund of the town. Amounts not paid when due shall bear interest at the rate of ten percent (10%) per annum until paid.

SECTION 7-504 TAX CONSTITUTES LIEN.

The tax so imposed in this chapter 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 electricity within the town limits of the town.

SECTION 7-505 USTER FOR FAILURE TO PAY.

Any person, firm or corporation failing or refusing to pay such tax when levied shall be regarded as a trespasser and may be ousted from the town. 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.

CHAPTER 6

EMERGENCY SERVICES FEE

Section 7-601 Monthly Fee and Use of Funds.
Section 7-602 Emergency Services Definition.

SECTION 7-601 Monthly Fee and Use of Funds

The Emergency Services Monthly Fee shall be \$3.00 for each Sperry Utility Services Authority Account, including residential, small business and commercial accounts. All fees collected by the Sperry Utility Services Authority shall be forwarded to the Town of Sperry and shall be placed in a separate account established by the Town of Sperry, Oklahoma, for expenditures related to Emergency Services.

SECTION 7-602 Emergency Services Definitions.

"Emergency Services" shall be defined to mean the Sperry Fire Department, Police Department and any other department or function of the Town of Sperry, Oklahoma related to public safety, including, but not limited to, the Emergency Management Department.

CHAPTER 7

SPECIAL SALES TAX ORDINANCE OF 2017

Section 7-701	Citation and Codification.
Section 7-702	Definitions.
Section 7-703	Tax Collector Defined.
Section 7-704	Classification of Taxpayers.
Section 7-705	Subsisting State Permits.
Section 7-706	Effective Date.
Section 7-707	Purpose of Revenues.
Section 7-708	Term of Tax.
Section 7-709	Tax Rate – Sales Subject to Tax.
Section 7-710	Exemptions.
Section 7-711	Other Exempt Transfers.
Section 7-712	Tax Due When – Returns – Records.
Section 7-713	Payment of Tax – Brackets.
Section 7-714	Tax Constitutes Debt.
Section 7-715	Vendor’s Duty to Collect Tax.
Section 7-716	Returns and Remittances – Discounts.
Section 7-717	Interest and Penalties – Delinquency.
Section 7-718	Waiver of Interest and Penalties.
Section 7-719	Erroneous Payments – Claim for Refund.
Section 7-720	Fraudulent Returns.
Section 7-721	Records Confidential.
Section 7-722	Amendments.
Section 7-723	Provisions Cumulative.
Section 7-724	Provisions Severable.

SECTION 7-701 CITATION AND CODIFICATION.

This Ordinance shall be known and may be cited as "Town of Sperry Special Sales Tax Ordinance of 2017."

SECTION 7-702 DEFINITIONS.

The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes, Section 1352, as amended, are hereby adopted by reference and made a part of this Ordinance.

SECTION 7-703. TAX COLLECTOR DEFINED.

The term "Tax Collector" as used herein means the Department of the Town government or the official agency of the State duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

SECTION 7-704. CLASSIFICATION OF TAXPAYERS.

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

SECTION 7-705. SUBSISTING STATE PERMITS.

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

SECTION 7-706. EFFECTIVE DATE.

This Ordinance shall become and be effective on and after July 1, 2017, subject to approval of a majority of the registered voters of the Town of Sperry, Oklahoma, voting on same in the manner prescribed by Title 11, Oklahoma Statutes, Section 16-101 *et seq.*, as amended.

SECTION 7-707. PURPOSE OF REVENUES.

It is hereby declared to be the purpose of this Ordinance to provide revenues to be placed in a separate, special fund to be used for the purpose of acquiring, constructing, improving, repairing, maintaining and equipping capital improvements, for the use and benefit of the Town of Sperry and any public trust having the Town of Sperry as beneficiary thereof, and/or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of the Town of Sperry for such purposes, including payment of the costs of issuance of such indebtedness.

“Capital Improvements”, as used above, means acquiring, constructing, improving, repairing, maintaining or equipping the following:

1. new or existing public buildings, structures or facilities;
2. public safety vehicles, equipment and/or facilities;
3. public recreation facilities;
4. streets, roads, alleys, sidewalks and bridges;
5. flood control, surface and stormwater drainage systems and
6. wastewater and sanitary sewer collection and treatment systems

and

7. potable water distribution systems and facilities.

“Acquiring, constructing, improving, repairing, maintaining and equipping”, as used above, means the reasonable and necessary expenses of the Town or any public trust having the Town of Sperry as beneficiary thereof, paid, incurred or accrued in acquiring, constructing, improving, repairing, maintaining and equipping capital improvements, including, but not limited to, the following:

1. cost of material and supplies to be utilized in connection with acquiring, constructing, improving, repairing, maintaining and equipping capital improvements;
2. cost of labor utilized either by the Town of Sperry or pursuant to contract in acquiring, constructing, improving, repairing, maintaining and equipping capital improvements;
3. any and all construction costs related to constructing, improving, repairing maintaining and equipping capital improvements;
4. cost of the purchase, lease or rental of machinery, equipment, and fixtures;
5. any other construction costs related to constructing, improving, repairing maintaining and equipping capital improvements;
6. cost of acquisition of real property, easements and rights-of-way necessary for constructing, improving, repairing, maintaining and equipping capital improvements, including any legal expenses, costs and fees incurred in such acquisitions, whether by purchase, condemnation or otherwise;
7. cost of the construction, reconstruction, relocation and repair of water systems and facilities, sanitary and storm sewer systems and facilities, other public utilities, and drainage improvements, including the acquisition of rights-of-way and other real property necessary for such construction in connection with constructing, improving, repairing maintaining and equipping capital improvements; and
8. cost of contractual services and professional, consulting, testing, architectural, engineering or construction management services, including legal services and services of financial consultants if related in any way to acquiring, constructing, improving, repairing, maintaining and equipping capital improvements.

SECTION 7-708. TERM OF TAX.

The tax herein levied shall be and remain in effect from July 1, 2017, and continuing thereafter until June 30, 2037, unless earlier repealed by the registered, qualified voters of the Town of Sperry prior to the termination date.

SECTION 7-709. TAX RATE - SALES SUBJECT TO TAX.

There is hereby levied in addition to all other taxes in effect in the Town of Sperry, Oklahoma, an excise tax of six tenths of one percent (.60%) upon the gross proceeds or gross receipts derived from all sales or services in the Town of Sperry, Oklahoma, upon which a consumers' sales tax is levied by the State of Oklahoma under the Oklahoma Sales Tax Code.

SECTION 7-710. EXEMPTIONS.

There is hereby specifically exempted from the tax levied by this Ordinance all items that are exempt from the State sales tax under the Oklahoma Sales Tax Code.

SECTION 7-711. OTHER EXEMPT TRANSFERS.

There is also hereby specifically exempted from the tax herein levied the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code.

SECTION 7-712. TAX DUE WHEN - RETURNS - RECORDS.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State sales tax under the Oklahoma Sales Tax Code.

SECTION 7-713. PAYMENT OF TAX - BRACKETS.

(a) The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided for payment of State sales tax under the Oklahoma Sales Tax Code.

(b) The bracket system for the collection of the .60% Town sales tax provided for herein by the Tax Collector shall be as the same as hereafter adopted by the agreement of the Town of Sperry, Oklahoma and the Tax Collector, in the collection of both the .60% City sales tax provided for herein and the State sales tax.

SECTION 7-714. TAX CONSTITUTES DEBT.

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

SECTION 7-715. VENDOR'S DUTY TO COLLECT TAX.

(a) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be 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 Ordinance, or any 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 charges, shall be 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 herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this Ordinance, or willfully or intentionally fails, neglects or refuses to comply with the provisions hereof or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100.00), plus costs, and upon conviction for a second or other subsequent offense shall be fined not more than Five Hundred Dollars (\$500.00), plus costs, or incarcerated for not more than sixty (60) days, or both. Provided sales by vending machines may be made at a stated price which includes state and any municipal sales tax.

(d) Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for the Town of Sperry, Oklahoma, and, as trustee, the collecting vendor shall have a fiduciary duty to the Town of Sperry, Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this article was collected from the consumer or user, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

SECTION 7-716. RETURNS AND REMITTANCES - DISCOUNTS.

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

SECTION 7-717. INTEREST AND PENALTIES - DELINQUENCY.

The provisions of Title 68, Oklahoma Statutes, Section 217, as amended, and of Title 68, Oklahoma Statutes, Sections 1350 *et seq.*, as amended, are hereby adopted by reference and made a part of this Ordinance, 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 Ordinance. Provided, that 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 Ordinance shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days the taxpayer shall forfeit his claim to any discount allowed under this Ordinance.

SECTION 7-718. 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 sales tax herein levied may be waived or remitted in the same manner as provided for such waiver or remittance as applied in administration of the State sales tax provided in Title 68, Oklahoma Statutes, Section 220, as amended; and to accomplish the purposes of this section the applicable provisions of such Section 220 are hereby adopted by reference and made a part of this Ordinance.

SECTION 7-719. ERRONEOUS PAYMENTS - CLAIM FOR REFUND.

Refund of erroneous payment of the Town sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State sales tax as set forth in Title 68, Oklahoma Statutes, Section 227, as amended, and to accomplish the purposes of this Section, the applicable provisions of such Section 227 are hereby adopted by reference and made a part of this Ordinance.

SECTION 7-720. FRAUDULENT RETURNS.

In addition to all civil penalties provided by this Ordinance, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose for avoiding or escaping payment for any tax or portion thereof rightfully due under this Ordinance shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to such fines and/or incarceration as provided in Title 68, Oklahoma Statutes, Section 241, as amended.

SECTION 7-721. 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 Title 68, Oklahoma Statutes, Section 205, as amended, of the Oklahoma Sales Tax Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the City sales tax as if here set forth in full.

SECTION 7-722. AMENDMENTS.

The people of the Town of Sperry, Oklahoma, by their approval of this Ordinance at the election hereinabove provided, hereby authorize the Board of Trustees of the Town of Sperry by ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as

may be necessary or proper for efficiency and fairness, except that neither the rate of the tax herein provided, nor the term, nor the purpose of the tax herein provided, shall be changed without approval of the qualified electors of the Town as provided by law.

SECTION 7-723. PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of Town Ordinances.

SECTION 7-724. PROVISIONS SEVERABLE.

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