

CHARTER OF THE CITY OF TAHLEQUAH

Adopted on the 18th day of June, 1940
and as amended

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CHARTER OF THE CITY OF TAHLEQUAH

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PREAMBLE

We, the people of the City of Tahlequah, under the authority of the Constitution of the State of Oklahoma, do ordain and establish this Charter for the City of Tahlequah.

ARTICLE I

NAME BOUNDARIES, POWERS

Section 1 Name Boundaries.

The municipal corporation now existing and known as "The City of Tahlequah", shall remain and continue a body politic and corporate under the same name and with the same boundaries with power and authority to change its boundaries in the manner authorized by law.

Section 2 Powers, Rights, Liabilities.

A. By the name of "The City of Tahlequah", the city shall have perpetual succession and shall own, possess or hold all real and personal property, heretofore owned, possessed or held by the city of Tahlequah, and shall assume, manage, and dispose of all trusts in any way connected therewith.

B. The city of Tahlequah shall succeed to all the rights and liabilities and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of the city of Tahlequah, by that name may sue and defend, plead, and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property.

C. The city of Tahlequah may receive bequests, devises, gifts, and donations of all kinds of property, in fee simple or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purposes of such bequests, devises, gifts and donations with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the bequests, devises, gifts, or donations.

D. The city of Tahlequah shall have the power within or without its territorial limits, to construct, condemn and purchase, acquire, lease, add to, maintain, conduct and operate, water and other public utilities or works and other public utilities or works or ways, in whole or in part, and everything required therefor, for the use of the city and the inhabitants thereof, and any such system, plants or works or ways, or any contracts in relation or connection therewith, that may exist and which said city may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the electors, at any special or regular election, in any amount necessary to carry out any of the powers or purposes.

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

F. The city shall have all powers, privileges and functions which by or pursuant to the constitution of this state, have been or could be granted to or exercised by any city of the first class.

G. The city shall have the power to license and regulate by ordinance the transportation of persons and property within the streets, alleys, and all other public places in the city, and to prescribe by ordinance rules governing all persons, corporations, or vehicles engaged or used in such transportation.

H. All powers of the city shall, except as otherwise provided in this charter, be vested in the officers and agents hereinafter provided for and subject to distribution and delegation of such powers as provided in this charter, or by ordinance. (Adopted 6-18-1940, as amended)

ARTICLE II

MUNICIPAL ELECTIONS

Section 3 Charter To Govern Elections; State Election Laws To Govern Where Applicable.

Except as herein provided by this charter, all elections for municipal officers in the city of Tahlequah, shall be held and conducted as provided by the statutes of the state of Oklahoma, and where applicable all provisions of the election laws of the state shall govern at all elections held by the city of Tahlequah. (Adopted 6-18-1940, as amended)

Section 4 Time For Regular Election Of Officers.

On the first day in February, 2007, authorized for state elections by the state election board and each four years thereafter, there shall be held a regular election conducted at the regular voting places within the city of Tahlequah for the election of municipal officers up for election pursuant to section 26 of article IV of the charter, consisting of councilors in wards three (3) and four (4) and for a mayor for the February 2007 election: and, on the first day in February 2009 authorized for state elections by the state election board and biennially thereafter, there shall be held a regular election conducted at the regular voting places within the city of Tahlequah for the election of municipal officers up for election pursuant to section 26 of article IV of this charter, consisting of councilors in wards one (1) and two (2) and a city treasurer, city clerk, a chief of police, and a street commissioner. The mayor, city treasurer, city clerk, chief of police and street commissioner shall be voted upon by the electors of the city at large. The members of the city council shall be voted upon by the electors of the respective wards as hereinafter defined. (Res. 11-01-04(B), 11-1-2004)

Section 5 Candidates For Office.

Any qualified elector of the city of Tahlequah, may become a candidate for any of the offices to be filled by the electors at large, and any qualified electors of the ward may become a candidate for member of the council for such ward, by filing with the city clerk, not less than sixty (60), nor more than sixty-five (65) days next preceding the date of the election, his or her written request to be placed upon the official ballot and payment of a filing fee of \$200.00. The city clerk shall cause to be prepared an official ballot in accordance with such request, and with the provisions hereof, and cause the same to be printed, as hereinafter provided, and only such official ballot shall be used at such election. The candidate for any office to be filled, receiving the majority of votes cast for such office, shall be declared elected to the office. In the event one candidate does not receive a majority of votes cast for such office, a run-off election between the two candidates receiving the most votes shall be conducted on the first day in April authorized for state elections by the state election board following the regular election. (Adopted 6-18-1940, as amended)

Section 6 Qualification Of Electors.

In the regular election provided for hereunder, only such persons shall be qualified to vote as electors therein as are qualified and registered under the general statutes of Oklahoma providing for qualification and registration of electors, and only such electors as are residents of the city of Tahlequah. (Adopted 6-18-1940, as amended)

Section 7 Precincts And Polling, And Manner Of Conducting Election.

All elections within the city of Tahlequah shall be held at the regular polling places and there shall be at least one polling place in each precinct, and electors shall vote only in the precinct in which they have registered or to which they have been duly transferred. Where a precinct extends beyond the city limits, such precinct, for the purposes of elections under this charter, shall be deemed as extending only to the city limits. (Adopted 6-18-1940, as amended)

Section 8 Preparation Of Ballots.

The ballots to be used in all regular elections for officers in the city of Tahlequah shall be caused to be printed by the persons now charged under the laws of the state of Oklahoma with that duty and the persons

shall distribute the ballots, together with the necessary election supplies, to the officers duly appointed for the holding of the election prior to the day designated for the hold of the election. (Adopted 6-18-1940, as amended)

Section 9 Counting And Return Of The Ballots.

The ballots shall be counted as provided by the general election laws of the state, and a certificate of the vote for each candidate shall be sealed as therein provided, and said ballots and ballot books shall be disposed of as provided by the general election laws of the state. (Adopted 6-18-1940, as amended)

Section 10 Ballots For Regular Election.

Whenever one or more measures or questions are submitted to the people and are to be voted upon at the same time as any officer or officers are to be elected, such measures and questions shall be submitted upon a ballot separate from that bearing the names of candidates for office. (Adopted 6-18-1940, as amended)

ARTICLE III

POWERS OF THE ELECTORATE; THE INITIATIVE

Section 11 Direct Legislation.

Any proposed ordinance may be submitted to the council by petition signed by qualified electors of the city, equal in number to the percentage hereinafter required. (Adopted 6-18-1940, as amended)

Section 12 Twenty-Five Percentum Petition.

If the petition accompanying the proposed ordinance be signed by qualified electors equal in number to twenty-five percentum of the last preceding vote cast for all candidates for mayor, and contains a request that the proposed ordinance be submitted to a vote of the people, if not

passed by the council, the council shall submit such proposed ordinance to a vote of the qualified electors of the city at an election, regular or special, to be held for that purpose, and the form of such petition, the manner of procuring and filing the same, and the time and manner within which election shall be held thereunder, shall be governed by ordinance or ordinances sufficient to carry out the purposes of this provision.

Section 13 Several Ordinances at One Election.

Any number of proposed ordinances may be voted on at the same election in accordance with the provisions of this Article and the ordinances which may be passed by the council in furtherance thereof.

Section 14 Limit to Special Election.

There shall not be held under this Article of the charter, more than one special election in any period of twelve (12) months, for the submission of the same proposition.

Section 15 Repeal of Electoral Ordinance.

The council may submit a proposition for the repeal or amendment of any ordinance so adopted by electoral vote, to be voted upon at any succeeding regular municipal election, and should such proposition so submitted receive a majority of the votes cast therefor at such election, such ordinance shall be repealed or amended accordingly. No ordinance adopted by electoral vote can be repealed or amended except by electoral vote.

Section 16 Mode of Protesting Against Ordinances.

No ordinance passed by the council shall go into effect before thirty (30) days from the time of its passage, except ordinances making a tax levy or appropriations or in respect to improvement districts or subdistricts and special assessments; and excepting also any ordinance for the immediate preservation of the public health, peace, or safety, which contains a statement of its urgency. If, during the thirty (30) days, a petition signed by the qualified electors of the city equal in number to at least twenty-five percentum of the last preceding vote cast for all candidates for mayor be presented to the council, protesting against the going into effect of such

ordinance, the same shall thereupon be suspended from going into effect and it shall be the duty of the council to reconsider such ordinance and if the same be not entirely repealed, the council shall submit the ordinance to a vote of the qualified electors of the city, either at the next regular municipal election or at a special election to be called for the purpose, and such ordinance shall not go into effect unless a majority of the qualified electors voting on the same shall vote in favor thereof.

Section 17 Reference by the Council.

The council may, of its own motion, submit to electoral vote for adoption or rejection at a regular or special municipal election any proposed ordinance, or measure in the manner and with the same force and effect as if a petition therefor had been filed as provided in the last preceding Section.

Section 18 Ordinance Receiving the Highest Number of Votes to Prevail.

If the provisions of two (2) or more proposed ordinances or measures adopted or approved at the same election conflict, then the ordinance or measure receiving the highest affirmative vote shall control.

Section 19 Regular Procedure.

The form of petition for exercising the referendum, and of the procedure thereunder, and for the referendum, and of the procedure thereunder, and for the reference by the Council of any matter upon its own motion, and of the matters and things pertaining to the carrying into effect this charter, shall be provided for by ordinance, and all such matters shall be regulated and governed by such ordinances as the Council may prescribe.

Section 20 The Enacting Clause.

The style of every ordinance submitted to the vote of the people by initiative petition or by the voluntary action of the council shall be as follows: "Be it ordained by the people of the City of Tahlequah:" and every such ordinance when passed by popular vote shall be signed by the mayor and attested by the clerk as so passed.

Section 21 Initiative Ordinances Repealed by the Electoral Vote.

The council may submit the repeal of any proposed amendment of any ordinance so adopted to the electors to be voted upon at any succeeding regular election, and should such proposal for repeal of amendment receive an affirmative majority of all votes cast thereon, such ordinance shall be repealed or amended accordingly.

Section 22 Council may Initiate Measure.

The council of its own motion may submit to the electoral vote for adoption or rejection at a regular or special municipal election any proposed ordinance or measure in the manner and with the same force and effect as if a petition therefor had been filed as in this charter provided.

Section 23 Franchise Petitions.

Whenever a petition is signed by a number of qualified electors of the City of Tahlequah equal to twenty-five percentum (25%) of the total number of votes cast at the next preceding regular municipal election, demanding that a franchise be granted, extended, or renewed, it shall be filed with the mayor, who shall within ten (10) days thereafter call a special election at which he shall submit the question of whether or not such franchise shall be granted, extended, or renewed and if at the election a majority of the electors voting thereon shall vote for the grant, extension or renewal of such franchise and same shall be granted by the council and mayor at the next succeeding regular meeting of the council.

ARTICLE IV

DUTIES OF CITY COUNCIL AND ELECTED OFFICIALS

Section 24 Legislative Powers.

The legislative branch of the city government shall consist of a city council composed of four (4) councilors and the mayor. The council shall exercise such legislative powers as may be authorized by and not inconsistent with the general laws of the State of Oklahoma, and shall set up such judicial authority as it may find necessary to enforce the ordinances of the city. The council shall have executive authority over all affairs of the

city, except those specifically delegated to the Utility Board hereinafter provided for.

Section 25 Distribution of Councilors.

Members of the council shall consist of one from each ward of the City. For the purposes of electing councilors the city is hereby divided into four (4) wards, which shall be bounded and described as follows:

Ward No. 1 shall consist of all that part of the City of Tahlequah lying northerly of Downing Street and U.S. Highway 62 and easterly of Muskogee Avenue, extending northeasterly from Downing Street to Valley Avenue extending northeasterly to Grand Avenue, thence northerly along Grand Avenue until it reaches State Highway 82 and thence northward along State Highway 82.

Ward No. 2 shall consist of all that part of the City of Tahlequah lying southerly of Downing Street and U.S. Highway 62 and easterly of Muskogee Avenue, extending southward along U.S. Highway 62.

Ward No. 3 shall consist of all that part of the City of Tahlequah lying southerly of Choctaw Street and State Highway 51 and westerly of Muskogee Avenue and U.S. Highway 62.

Ward No. 4 shall consist of all that part of the city of Tahlequah lying north of Choctaw Street and State Highway 51 and westerly of Muskogee Avenue extending northeasterly from Choctaw Avenue to Valley Avenue and thence northeasterly along Valley Avenue to Grand Avenue, thence northerly along Grand Avenue until it reaches State Highway 82 and thence northward along State Highway 82.

The above described ward boundaries shall be effective until the next decennial census of the United States.

In January of the year 2001, and thence every 10 years after that the ward boundaries may be changed as herein set forth. There shall be appointed a City of Tahlequah Redistricting Recommending Committee. This Committee shall consist of five (5) members. One member shall be appointed by the Mayor and one member of the committee shall be appointed by each of the respective four (4) City Councilors.

It shall be the duty of the Committee to investigate the population of the City of Tahlequah in light of the most recent census figures and to

recommend adjusting the ward boundaries of the City of Tahlequah, if necessary. It shall be the duty of the Committee to issue its report recommending readjustment of the ward boundaries of the City of Tahlequah by July 1 of the year following the appointment. The findings of the Committee shall be recommended to the Mayor and the City Council of the City of Tahlequah and with the issuance of its report the term of office for the members of the Committee shall then expire, but in no event shall the term of office of the Committee extend beyond the date of July 1 following the year of appointment. The City Council shall have the boundaries of the City of Tahlequah to accomplish redistricting consistent with the laws of the United States and the State of Oklahoma.

Section 26 Term of Office.

All elected officers shall qualify and assume office on the first Monday in May succeeding their election. They shall hold office for a term of four (4) years, and until their successor shall have been elected and qualified. At the first election following the approval of this charter amendment an elective term of two (2) years for the mayor and councilors of wards three (3) and four (4). Then thereafter for a term of four (4) years.

Section 27 Vacancy.

Whenever a vacancy occurs in the council by reason of death, resignation, incapacity, or removal of a member, the council shall appoint an eligible person from the ward from which the vacancy occurs to fill such vacancy until the next regular municipal election.

Section 28 Removal by Council.

Whenever any person elected or appointed to the council neglects or refuses or fails to qualify within ten (10) days of the beginning of the term for which he has been chosen, and whenever a councilor neglects or refuses or fails to attend the meetings of the council for ninety (90) days without first having the consent of the council, which consent must be entered upon its records, or removes from the city, is convicted of a felony or judicially declared a lunatic, as defined by statute, the council shall declare that a vacancy exists and proceed to elect a successor to such councilor in the manner provided for in the next preceding Section.

Section 29 Qualifications.

No person shall be eligible for any elected office of the City of Tahlequah unless the person be a citizen of the United States and of the State of Oklahoma at least twenty-five (25) years of age, and a qualified voter in the City of Tahlequah, and shall have been immediately preceding election an actual resident of the City of Tahlequah. Councilors must be an actual resident of the ward from which they are elected. All elected officials must maintain an actual residence within the limits of the city during his or her term of office, and that no person previously convicted of felony under either state or federal law shall be eligible to hold elective office under the government of the city of Tahlequah, Oklahoma.

Section 30 Oath of Office.

All elected officers shall upon assuming office take and subscribe to an oath to support the Constitution of the United States and of the State of Oklahoma and the Charter of the City of Tahlequah, and diligently to perform the duties of the office.

Section 31 Holding other offices.

~~No member of the council shall be appointed to any office or position, for which any other compensation is paid by the city, under the city during the term of office as councilor.~~

Section 32 No Direct Interest in City Expenditures.

No member of the council shall have any financial interest in or reap any financial benefit directly or indirectly from any expenditures of the city, save as the result of the general benefit arising from the maintenance of the streets, alleys, parks and public places in the City of Tahlequah.

Section 33 Salaries of Elected Officers.

The salaries of all elected officers shall be and remain the same as they were immediately before the adoption of this charter and until changed in the manner hereinafter provided.

Section 34 Compensation of Officers and Employees.

The council shall fix the compensation of all officers and employees appointed by it.

Section 35 Changes in Compensation.

The council may by ordinance change, designate and fix the salary of the elected officers of the City of Tahlequah, the change to become effective at the beginning of the succeeding term of office.

Section 36 Selection of Other Officers and Employees of the City of Tahlequah.

All officers and employees of the City of Tahlequah, other than elective officers and except as hereinafter specifically provided, shall be selected and appointed by the mayor or council and approved by the council. Their term of office, conditions of servitude, and compensation shall be fixed and determined by the council, and they shall hold office during the pleasure of the council.

Section 37 Presiding Officer; President of the Council and Clerk.

The mayor shall preside over the council at its sessions. A president of the council shall be elected by the council from its members who shall preside in the absence of or the disability of the mayor. The city clerk shall be clerk of the council and shall with the mayor, sign and attest all ordinances and resolutions.

Section 38 Duties of the City Clerk.

The city clerk shall be a recording officer and shall be the custodian of all documents and records of the City of Tahlequah, except such departmental records as shall be delegated by the council or hereinafter reserved to be kept by the departmental heads. The city clerk shall keep the record of appropriations and expenditures of payment or indebtedness, minutes of all meetings of the council, and such other records as the council may instruct the clerk to keep.

Section 39 Duties of the Treasurer.

The city treasurer shall be custodian of all funds belonging to the City of Tahlequah, except those hereinafter specifically placed in the custody of the Utility Department. The city treasurer shall keep a proper record and system of accounts of all funds coming into his control.

Section 40 Duties of Chief of Police.

The Chief of Police shall enforce the laws of the State of Oklahoma and the City of Tahlequah.

Section 41 Duties of the City Clerk, Treasurer, Chief of Police and Street Commissioner.

The city clerk, treasurer, chief of police and street commissioner, in the discharge of their duties, shall be subject to legal orders of the mayor and council.

Section 42 Signature and Seal.

All documents of the City of Tahlequah, shall bear the signature of the mayor, attested by the city clerk, and the official seal of the city.

Section 43 Regular Meetings.

The council shall hold regular meetings on the first Monday night of each month or at such time as the council may by ordinance designate, and may hold such adjourned meetings as it may find necessary for the dispatch of its business, provided that if the regular meeting date falls on a legal holiday the meeting shall be held upon the succeeding day.

Section 44 Special Meetings.

Special meetings of the council may be called by the mayor, or by three (3) councilors, at any time on such notice as the council may prescribe by ordinance, but the purpose of such meeting shall be set forth in such call and no other business shall be transacted at such meeting.

Section 45 Quorum.

A majority of the members of the council shall constitute a quorum to do business, but a less number may adjourn to any date prior to the next regular meeting. The council shall conduct its meetings and maintain a public record in accordance with the Oklahoma Open Meetings Act in effect at the time of such meeting.

Section 46 Rules of Procedure.

The council shall, subject to the provisions of this charter, determine its own rules of procedure.

Section 47 Removal of Officers.

The council may by a vote of a majority of all its members, to be entered upon the journal, remove for cause any officer except the mayor and members of the Utility Board. The mayor may be removed from office for the causes and in the manner now provided by the laws of the State of Oklahoma for the removal of county officers.

Section 48 Final Passage of Ordinances.

No ordinance shall be passed finally on the date when it is introduced except in the case of public emergency, the nature of which emergency shall be clearly stated in such ordinance. No ordinance making a grant or any franchise or special privilege shall ever be passed as an emergency measure.

Section 49 Franchise Ordinances.

No proposed ordinance granting any franchise shall be put upon its final passage within thirty (30) days after its introduction nor until it has been published not less than once a week for three (3) consecutive weeks next before such final passage, in a newspaper published and for general circulation in the city.

Section 50 Publication of Ordinance Adopted.

Every ordinance adopted shall be published once in a newspaper published and of general circulation in the city and shall not take effect until thirty (30) days after such publication except emergency ordinances passed as provided for in this Article, which shall take effect upon passage and publication, subject always to the provisions of the referendum; and provided further, that this section shall not apply to special assessment ordinances, but such ordinances shall be governed by the provisions of the statutes of the state.

Section 51 Amendment; Repeal.

No ordinance or section thereof shall be amended or repealed except by ordinance adopted in the manner provided in this charter.

Section 52 Record of Ordinances.

A true copy of every ordinance shall be kept in a book marked "Ordinance Record", and authenticated by the signatures of the mayor and the clerk.

Section 53 Proof of Ordinance.

Any ordinance may be proved by a copy thereof certified by the clerk, under the seal of the city; or when printed in a book or pamphlet form published by the authority of the city, the same shall be received in evidence in all courts, in other places, without further proof.

Section 54 Bonds.

The bonds of all officials and employees of the City of Tahlequah shall be good and acceptable Surety Bonds and meet with the approval of the council. The council shall designate by ordinance or resolution what officers or employees of the city shall give bond and the amount thereof in each case.

Section 55 Administrative Ordinances.

The council shall have the power, and it shall be its duty to pass ordinances which may be proper and expedient to regulate and determine the organization and procedure of administrative departments.

Section 56 Publication of Estimates.

It shall be the duty of the council to have published statements of the estimated needs and expenditures of the City of Tahlequah at the end of each fiscal year in compliance with the general laws of the State of Oklahoma.

ARTICLE V

FRANCHISES

Section 57 Franchise Granted Upon Vote.

No franchise shall ever be granted, extended, renewed or leased by the city, without the approval of the majority of the qualified electors residing within the corporate limits who shall vote thereon, at a special or regular election, and the question of its being granted shall not be submitted to such vote except upon deposit with the treasurer of the expenses of such submission (to be determined by the council) by the applicant for said franchise.

Section 58 Franchise Specify Streets.

All franchises or privileges hereafter granted shall plainly specify on what particular streets, alleys, ways or other public property the same shall apply; and no franchise or privilege shall be void after a period of one year from the date the same may be granted as to streets, alleys, ways or other public property upon or within which work was not commenced within one year from the granting of the franchise and prosecuted with due diligence to completion.

Section 59 Power to Regulate Rates and Fares.

Subject to the power reserved by the Constitution of this State to the Corporation Commission, all power to regulate the rates, fares, and charge for service by public utility corporations is hereby reserved to the people to be exercised by them by ordinance of the council or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient and adequate service to the public and reasonable extensions of such service and of such public utility works.

Section 60 Ordinance in Plain Terms.

No franchise, right or privilege or license shall be considered as granted by any ordinance except when expressed therein in plain and unambiguous terms and any and every ambiguity therein shall be construed in favor of the city and against the claimant under said ordinance.

Section 61 Franchise Provide for Safety.

The grant of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to pass and enforce ordinances to require proper and adequate extensions of service of such grant and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise and right to make and enforce all such regulations as shall be reasonably necessary to secure extensions and accommodations for the people and insure their comfort and convenience.

Section 62 No Exclusive Franchise.

No exclusive franchise shall ever be granted.

Section 63 Renewal.

No franchise shall be renewed before five (5) years prior to its expiration.

Section 64 No Franchise Leased Except.

No franchise granted by the city shall ever be leased, assigned or otherwise alienated without the express and written consent of the city, and no rule of estoppel shall ever be invoked against the city asserting the invalidity of any attempted transfer in violation of this section.

Section 65 Term Not Longer Than Twenty-Five Years; Compensation.

No franchise, lease, or right to use the streets, or the public place or property of the city shall be granted by the city for a period longer than twenty-five (25) years, nor without fair compensation to the city therefor, and in addition to the other forms of compensation to be therein provided, the grantee shall be required to pay annually to the city such percentage of the gross receipts arising from the use of such franchise and of the plant used therewith as shall be fixed in the grant and said franchise. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee for the use of the same, but this shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges or impositions not levied on account of such use.

Section 66 City May Purchase; Procedure.

Every grant of a franchise or right shall provide the city may upon the payment therefor of its fair valuation, to be made as provided in the grant, purchase and take over the property and plant of the grantee in whole or in part.

The procedure to effect such purchase shall be prescribed by ordinance.

Section 67 Matters in Charter Not to Impair Right of Council to Insert Other Matters in Franchises.

The enumeration and specification of particular matters in this charter which must be included in every franchise or grant shall never be construed as impairing the right of the city to insert in such franchise or grant, such other further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges,

control, forfeitures, or any other provisions whatever as may be deemed proper to protect the interests of the people.

ARTICLE VI

THE MAYOR

Section 68 The Mayor.

A. The mayor shall sign all contracts, bonds, or other instruments requiring the assent of the city and take care that the same are duly performed.

B. The mayor shall call all special municipal elections as in this charter or the laws of the state provided.

C. The mayor shall perform such other duties not inconsistent with the purposes and provisions of this charter, as the council may assign the mayor.

D. The mayor shall be the chief administrative officer of the city and shall have charge and supervision of all branches of the city service except as otherwise in this charter provided.

E. The mayor shall see to the faithful execution of all laws and ordinances of the city and the state.

F. The mayor or the council, with the approval of the council, shall have power to dismiss any officer or employee appointed by the mayor or council with approval of the council whenever the interests of the City so require, except as herein provided.

G. The mayor shall control and direct the several officers and departments of the city administration except as hereinafter provided.

H. The mayor shall have power at any time to investigate the affairs of any department. The mayor, or any other person appointed by the mayor for the purpose, shall have power to compel the attendance of witnesses and the production of books, papers and other evidence.

I. The mayor shall attend all meetings of the council and may take part in the discussions but shall not vote except in case of a tie, when the mayor may cast the deciding vote.

J. The mayor shall keep the council advised of all the needs of the city and shall recommend measures for its adoption.

K. The mayor shall perform all such other duties as may be imposed on the mayor by this charter or by ordinance.

Section 69 President of Council.

In the event of the absence, disability, resignation, removal of the mayor, the president of the council, elected as hereinbefore provided, shall act as mayor until the mayor shall have returned or recovered from the disability, or until a successor to the mayor shall have been elected and qualified.

ARTICLE VII

DEPARTMENTS

Section 70 Administrative Departments.

The city administration under the mayor shall be arranged into a police department, a street department, a fire department, a utility board and such other departments as the council may prescribe by ordinance.

A. The police department shall consist of a chief of police, and as many police officers as may be provided for.

B. The street department shall consist of a street commissioner, and as many employees as may be provided for.

C. The Utility Board, shall be constituted as hereinafter provided.

D. The provisions of Article 5, Charter 33 O.S. 1931, and such other existing laws of the State of Oklahoma, as may be applicable, shall govern The Fire Department of the City of Tahlequah, and by reference are hereby incorporated as provisions of the Charter; provided however that members of said fire department shall not be removed, or discharged as by said state

statutes provided, except upon ten (10) day notice and a hearing, and with the right to appeal, by either party, as now provided by the laws of the state.

Section 71 Police Department.

It shall be the duty of the police department to maintain order and to enforce the laws and ordinances of the state and city and to that end every officer shall have power, and it shall be his duty to make arrests upon warrant, or without warrant when he shall be a witness to the violation of any law or ordinance, or upon request of a complaining witness who offers to institute a prosecution forthwith, and he shall bring the offender before the court having jurisdiction forthwith. And the police department, and all officers thereof shall perform all such duties as may be required of them by the laws, ordinances, rules and regulations which may be made governing the police department.

Section 72 Fiscal Year.

The Fiscal year of the city shall commence on the first day of July and end on the last of June of the succeeding year.

Section 73 Public Moneys.

The treasurer shall have direct control of the revenues of the city except as otherwise provided by this charter or by ordinance.

All sinking funds collected and accumulated from time to time for the purpose of meeting any future maturing, bonded or other indebtedness, except such as may from time to time be invested in lawful securities, are hereby required to be placed on time deposit in solvent banks, at the highest rate of interest that can be secured from such bank or banks upon certificate of deposit for such funds and no part of such funds shall be at any time deposited in any bank at a lower rate of interest when another solvent bank in the city is willing to accept the same on time deposit and pay a higher rate of interest of such deposit; provided however, that the deposit in any one bank shall never be in excess of its capital and surplus. On making deposits of such sinking funds, the treasurer shall take from each institution or institutions as security for such deposits negotiable interest bearing United States, State, County, School District, or Municipal Bonds, or surety company bonds in an amount not less than the amount of

such deposit. In the investment and application of such sinking funds the provisions of Article I, Chapter 32 O.S. 1931, and such other existing laws of the State of Oklahoma as may be applicable, shall govern the officers of the City of Tahlequah in such investment and application, and by reference are hereby incorporated as provisions of this charter.

ARTICLE VIII

MUNICIPAL UTILITY BOARD

Section 74 Municipal Utility Board.

There is hereby created a Municipal Utility Board which shall consist of five (5) members possessing the same qualifications as members of the city council and who shall be appointed by the mayor with the confirmation of the council.

Section 75 Term of Office.

The members of the Utility Board shall be appointed and hold office for a period of live (5) years and may be appointed to only one (1) additional term of five (5) years; provided that the members of said Board constituted when this charter goes into effect, shall continue in such office for the period of their appointment and their successors have been appointed and qualified.

Section 76 Compensation.

Members of the Utility Board shall receive like compensation as the members of the city council.

Section 77 Removal of Members of Utility Board.

That any member of the Municipal Utility Board may be removed from office for neglect of duty, corruption or misfeasance in office, or upon any other ground for which a county officer may be removed, upon petition filed in the District Court in and for Cherokee County, Oklahoma, where proceedings shall be held in all respects similar to proceedings in connection with the removal of a county officer.

Section 78 Filling of Vacancies.

Vacancies in the membership of said Utility Board by reason of death, resignation, removal or any other cause, shall be filled by the remaining members of said Utility Board appointing a qualified person or persons to serve during the unexpired term or terms, such appointments to require the concurrence of a majority of said remaining members.

Section 79 Duties.

The Utility Board shall have the care, custody and management of the existing electric system, water system, street lighting system, and sewage disposal system and may enlarge and extend them as the necessity therefor arises. It shall have under its control the complete operation of these utilities and such others as the people of the City of Tahlequah may acquire by election for that purpose. All the utilities shall be collectively known as the Municipal Utility Department.

The Utility Board shall employ all persons necessary in the operation of the utilities, and fix their salaries, conditions of servitude, and terms of office.

The Utility Board shall adopt such rules and regulation as it may deem necessary for the proper conduct of the business.

Section 80 The Municipal Utility Department as a Business Enterprise.

The Municipal Utility Department shall be operated for the benefit of the City of Tahlequah and the citizens thereof through the furnishing of electricity and water services for public and private uses at reasonable rates, the providing of water service for fire protection, and the safeguarding of the public health through proper sanitary facilities, and such other public services as may be placed upon it.

The Municipal Utility Department shall not contribute or donate any money or free service to any individual, firm or organization and each municipal department shall pay said Municipal Utility Department for electric and water services at rates sufficient to meet the Department cost of operation.

Section 81 Rates Not to be Increased.

The Utility Board shall fix all rates for service, except those now under special contract, furnished to customers of the Utility Department. Provided that the rates charged for utility services shall at no time be increased or exceed the rates in force at the time of adoption of this charter.

Section 82 Application of Revenues.

The revenues derived from the operation of the Utility Department shall be applied as follows:

For the ordinary operating expenses of the Utility Department and the retirement of Utility Department Bonds or certificates of indebtedness. Within the scope of operating expenses shall be included the cost of the ordinary operation and the expenses incidental to the running of new services and installation of new meters and minor extensions of lines, and to make replacements due to obsolescence, all such expenditures to come within and be paid for out of the revenues from the Utility Department for the year in which they arise. The Utility Board may provide a reserve for depreciation.

Major improvements in the Utility Department shall be authorized only by a vote of the citizens of Tahlequah and in the manner provided by the constitution and law of the State of Oklahoma, except that, in addition to the constitutional requirements the bonds or certificates of indebtedness may specify that the requirements and interest payments for the same may be made from the revenue of the Utility Department so long as same shall be sufficient to meet annual interest and accruals.

If utility indebtedness be incurred, it shall be with the consent of the qualified voters of the City of Tahlequah as provided by and under the constitution and laws of the State of Oklahoma, and when authorized by a vote of the people for that purpose, the Utility Board may issue securities for improvement and extensions of the Department against the future revenues of the Department.

Section 83 Surplus Revenues.

In the event the revenues derived from the operation of the Utility Department shall exceed the requirements enumerated and specified in the

preceding Section, such surplus revenues shall be paid over to the city treasurer and shall be applied by the mayor and the city council as follows:

1. For the current interest and accruals in the Sinking Fund of the City of Tahlequah; or
2. For the Police and Fireman's Pension Fund of the city such sums for the purpose as hereinafter provided; or
3. For the General Fund of the City of Tahlequah.

Section 84 Audits.

The council shall have power in case of necessity to employ special counsel and special experts, accountants or auditors for the purpose of making special examinations of the books and accounts of any officer or department of the City of Tahlequah, and annually at the close of the fiscal year cause the books and accounts of all officers and departments, including the Utility Department to be audited by a Certified Public Accountant or by Registered Public Accountant. Said accountant shall prepare a detailed statement of all expenditures and revenues of all departments of the city for the preceding year and furnish same to the mayor and council in time to be made a part of the city's annual statement of revenues and expenditures and estimated needs for the ensuing year.

Section 85 Appropriations.

The Utility Board shall cause to be prepared at the end of the fiscal year a statement of its estimated needs for the ensuing year and shall appropriate funds from the department's revenues to provide for said estimates, and said statement shall be made a part of and published with the financial statement and estimated needs of the City of Tahlequah.

The mayor and council shall receive that statement of the probable needs of the various officers and heads of departments under their control, shall consider the sufficiency and necessity in said statements and from these statements and the anticipated revenues for the ensuing year, they shall compile a statement of estimated needs and appropriations for the general government of the city for the ensuing year.

Section 86 Elections to Authorize Incurring of Indebtedness.

Upon demand therefor by the Municipal Utility Board by its resolution presented to the mayor, the mayor shall within ten (10) days after the presentation of said resolution call a special election as provided for herein and submit to the qualified electors of the City of Tahlequah the request of said Municipal Utility Board to be permitted to issue bonds or certificates of indebtedness for major improvements of the City Light and Water Department or other utilities, and if at said election a majority of the qualified voters of the City of Tahlequah voting at said election shall vote in favor thereof, then such bonds or certificates of indebtedness shall be issued as now provided by law.

Section 87 Special Elections.

Special elections in the City of Tahlequah shall be called and held for the purposes in the manner enumerated in Section 6038 and 6039 O.S. 1931, and the Utility Board by its resolution may direct the mayor and council to call an election in the manner provided by said sections for the purpose of submitting to the qualified voters of the City of Tahlequah any question deemed necessary by said Utility Board to be voted upon by said qualified electors of the City of Tahlequah, and when so requested the said mayor and council shall proceed without delay to call and hold said election and certify the result thereof to said Utility Board.

ARTICLE IX

MISCELLANEOUS

Section 88 Continuance in Office.

All persons holding any non-elective office or employment under the city at the time when this charter goes into force and effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this charter until removed or until the compensation is changed.

The term of office of the mayor, councilors, city clerk, city treasurer, chief of police and street commissioner of the City of Tahlequah, elected prior to the time this charter takes effect, shall terminate at 10:00 A.M. on

the first Monday in May, 1941, or as soon thereafter as the officers provided for in this charter have qualified.

Section 89 Present Ordinances Continue in Force.

All laws, ordinances, resolutions, by-laws, orders, rules, or regulations in force in the City of Tahlequah at the time this charter takes effect, and not inconsistent with the provisions of the charter, whether enacted by the authority of the city or by any other authority, shall continue in full force and effect until the council otherwise by ordinance provides, notwithstanding any change or organization effected by this charter.

Section 90 Continuing Bonds.

All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the city before this charter takes effect, and all taxes, fines, penalties, and forfeitures due or owing to the City, and all writs, prosecution, actions, and causes of action, except as herein provided, shall continue and remain unaffected by this charter.

Section 91 Official Books; Records; Etc.

A. All books, records and papers of every office, department, board or commission are city property and must be kept as such by the proper offices or employees during their continuance in office and then delivered to their successors who shall give duplicate receipts therefor, one of which shall be filed with the clerk.

B. Certified copies of extracts from the books, records and files shall be given by the officer, board, commission or employees having the same in custody, to any person demanding the same and paying a reasonable price therefor.

C. All equipment, collections, models, materials, instruments, tools and implements which are collected, maintained, used or kept by the City of Tahlequah or by any department officer, board or commission, shall be city property, and be duly accounted for or turned over to their respective successors.

Section 92 Amendment; Revision or Repeal.

This charter may be amended or revised or repealed at any regular municipal election, by proposal thereafter, submitted by the mayor and council of the City of Tahlequah, or by initiative petition, to the qualified electors of the city at a regular election, and ratified by the favorable votes of a majority of the vote cast for all candidates for mayor at said election. Notice of the amendment, or revision, or repeal, to be voted on shall be published in a newspaper of general circulation and published in the City of Tahlequah, for four (4) consecutive weeks next before said election. If the proposal shall receive the said required number of votes as aforesaid, the same shall thereupon become an amendment to and a part of said charter and supersede all other provisions of said charter in conflict therewith, or the revised charter, or the repeal thereof, as the case may be, when approved by the Governor of the State of Oklahoma, and filed in the same manner and form as an original charter.

Section 93 Effect of Unconstitutionality of any Section.

If any Section, paragraph, sentence, or phrase of this charter shall be declared unconstitutional or void for any reason by Court of final jurisdiction such fact shall not in any manner invalidate or affect any other Section, paragraph, sentence, or phrase of this charter, but the same shall continue in full force and effect.

