

CHARTER
OF THE
CITY OF CHOCTAW, OKLAHOMA

APPROVED BY THE GOVERNOR
September 1973

AMENDED AND APPROVED
April 1999

PREAMBLE

- ARTICLE A - INCORPORATION; FORM OF GOVERNMENT; POWERS
- ARTICLE B - THE COUNCIL
- ARTICLE C - CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS
- ARTICLE D - DEPARTMENT OF FINANCE: FISCAL AFFAIRS
- ARTICLE E - MUNICIPAL COURT
- ARTICLE F - ELECTIONS
- ARTICLE G - RECALL
- ARTICLE H - OFFICERS AND EMPLOYEES GENERALLY
- ARTICLE I - DENSITY OF DWELLINGS
- ARTICLE J - AMENDMENT AND SEPARABILITY OF CHARTER
- ARTICLE K - SUCCESSION IN GOVERNMENT

PREAMBLE

We the people of the City of Choctaw, exercising the powers of home rule granted to us by the constitution and laws of the State of Oklahoma, in order to provide for more efficient, adequate, and economical government, do hereby ordain, ratify, and establish this charter of the City of Choctaw, Oklahoma.

ARTICLE A

INCORPORATION; FORM OF GOVERNMENT; POWERS

SECTION 1-1 INCORPORATION; ANNEXATION.

- A. When this charter goes into effect, the Town of Choctaw, Oklahoma shall become a city, and within the corporate limits as now established or as hereafter, may be established, shall be a municipal body politic and corporate in perpetuity under the name of "City of Choctaw." The city shall be the legal successor of the town; and as such, it shall succeed to and possess all the property and rights belonging to the town, and shall be liable for all debts and succession in government.

- B. The City of Choctaw, Oklahoma, may not be annexed by nor consolidated with any other municipality, nor be merged into a combined county-city-government or other governmental unit, unless a majority of the qualified electors of the city voting on the question at an election approve such annexation, consolidation, or merger.

SECTION 1-2 FORM OF GOVERNMENT.

The municipal government provided by this charter shall be a "council-manager government." All powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

SECTION 1-3 POWERS OF THE CITY.

The city shall have all powers possible for a city operating under a home rule charter to have under the constitution and laws of this state as fully completely as though they were specifically enumerated in this charter.

SECTION 1-4 CONSTRUCTION.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

SECTION 1-5 INTERGOVERNMENTAL RELATIONS.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE B
THE COUNCIL

SECTION 2-1 COUNCILMEN: NUMBER, QUALIFICATIONS.

- A. There shall be a council of seven (7) members, which shall consist of the mayor as councilman at large and one councilman from each of the six (6) wards of the city.

- B. Only qualified electors of the city who are at least twenty-five (25) years old shall be qualified for the office of mayor. Only qualified electors of the city who reside in the respective wards from which they are elected or appointed to fill a vacancy, and who are at least twenty-five years old, shall be qualified for the offices of councilmen from the wards. A change in ward boundaries shall not prohibit a councilman from completing his term of office. Neither the mayor nor any other councilman may hold any office or position in the city government by appointment by the city manager or by any subordinate of the city manager. If the mayor or any other councilman is convicted of a felony, his office shall become vacant immediately when the case is finally determined.

- C. Notwithstanding any other provision of this charter, a person who is already a volunteer fireman or in any other volunteer service of the municipality at the time he becomes mayor or other councilman, may, without favoritism, continue in such volunteer service and receive such compensation as may be provided therefor.

SECTION 2-2 MAYOR AND VICE MAYOR.

- A. The mayor shall preside at meetings of the council. He shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law. He shall have no administrative duties except that he shall sign such written obligations of the city as the council may require. As a councilman, he shall have all powers, rights, privileges, duties, and responsibilities of a councilman, including the right to vote on questions.

- B. At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen, or as soon thereafter as practicable, the council shall elect from its membership a vice mayor, who shall serve as such until the next such first meeting. The vice mayor shall act as mayor during the absence, disability, or suspension of the mayor, or, if a vacancy occurs in the office of mayor, until another mayor is elected by the council for completion of the unexpired term and qualifies. If the office of vice mayor becomes vacant, the council shall elect from its membership another vice mayor for completion of the unexpired term.

SECTION 2-3 MAYOR AND OTHER COUNCILMEN: COMPENSATION.

- A. The salary of the mayor shall be Thirty Dollars (\$30.00) per month, and the salary of each other councilman shall be Twenty Dollars (\$20.00) per month, subject to change from time to time by a non-emergency ordinance passed by the council or by an initiated ordinance adopted by the electors. Such a non-emergency ordinance shall be published in full in a newspaper of general circulation within the city within ten (10) days after its passage; and if a sufficient and lawful referendum petition is properly filed within thirty (30) days after the passage of such ordinance, the ordinance shall not go into effect until approved by a majority of the electors of the city voting on the question at an election. In no case, shall an ordinance changing the compensation of the mayor and/or other councilmen go into effect during the current term of any councilman serving when the ordinance is adopted.

- B. The mayor and other councilmen may be reimbursed for reasonable expenses incurred in the discharge of their official duties.

SECTION 2-4 COUNCIL: POWERS.

Except as otherwise provided in this charter, all powers of the city including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the state constitution, law, and this charter:

1. To appoint and remove the city manager;
2. By ordinance to enact municipal legislation;
3. To adopt the budget, raise revenue, and make appropriations; and to regulate bond elections, the issuance of bonds, sinking funds, the refunding of indebtedness, salaries, wages, and other compensation of officers and employees, and all other fiscal and business affairs of the city;
4. To inquire into the conduct of any office, department, or agency of the city government, and investigate municipal affairs; and for this purpose, to subpoena witnesses, take testimony, and require the production of evidence;
5. To appoint or elect and remove the city attorney, the members of the personnel board, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial, or advisory personnel, now or when and if established; or to prescribe the method of appointing or electing and removing them;
6. To regulate elections and the recall; and
7. To create, change, and abolish all offices, departments, and agencies of the city government other than the offices, departments, and agencies of the city government created by this charter; and to assign additional powers and duties consistent with this charter to offices, departments and agencies created by this charter.

SECTION 2-5 COUNCIL, APPOINTMENTS AND REMOVALS.

Neither the council, the mayor, nor any of its other members may direct or request the appointment of any person to, or his removal from, office or employment by the city manager or by any other authority; or, except as provided in this charter, participate in any manner in the appointment or removal of officers and employees of the city. Except for the purpose of inquiry, the council and its members shall deal with service solely through the city manager; and neither the council nor any member thereof may give orders on administrative matters to any subordinate of the city manager either publicly or privately.

SECTION 2-6 CITY CLERK TO BE CLERICAL OFFICER OF COUNCIL.

- A. The city treasurer shall be city clerk ex officio unless the council provides by ordinance that the council shall elect the city clerk for an indefinite term.
- B. The city clerk shall serve as clerical officer of the council. He shall keep the journal of its proceedings, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it; shall be custodian of such documents, records, and archives as may be provided by applicable law or ordinance; shall be custodian of the seal of the city, and shall attest and affix the seal to, documents when required in accordance with applicable law or ordinance; and shall have such

other powers and duties consistent with this charter as may be prescribed by ordinance or applicable law.

SECTION 2-7 COUNCIL, MEETINGS.

The council shall hold at least one regular meeting every month, at such time as it may prescribe by ordinance or otherwise. The mayor or any four (4) councilmen may call special meetings. All meetings of the council, except as otherwise authorized by law, shall be open to the public, and the journal of its proceedings shall be open to public inspection.

SECTION 2-8 COUNCILMEN, ABSENCES TO TERMINATE MEMBERSHIP.

If the mayor or any other councilman is absent from more than one-half (½) of all the meetings of the council, regular and special, held within any period of four (4) consecutive calendar months, he shall thereupon cease to hold office.

SECTION 2-9 COUNCILMEN, REMOVAL.

The mayor or any other councilman may be removed from office for any cause specified by state law for the removal of officers, and by the method or methods prescribed thereby, and by recall as provided in this charter.

SECTION 2-10 COUNCIL, VACANCIES.

- A. The council, by majority vote of its remaining members, shall fill vacancies in its own membership, including the office of mayor, for the unexpired terms or until successors are elected as provided in this section.

- B. If a vacancy occurs before the beginning of a regular filing period for candidates for councilmen, and the unexpired term extends beyond the time when the terms of councilmen elected that year begin, then a mayor or a councilman for that office, as the case may be, shall be elected at the election of that year to serve the rest of the unexpired term beginning at the terms of councilmen elected that year begin.

SECTION 2-11 COUNCIL, QUORUM, RULES, ROLL CALL, VOTE REQUIRED.

A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn or recess from time to time. The council may determine its own rules. On the request of any member, the vote on any question shall be by roll call, and shall be entered in the journal. An affirmative vote of a majority of all the councilmen is required for the passage or adoption of any ordinance, resolution, or other action by the council, except that a motion to adjourn or to recess may be adopted by a majority of the councilmen voting on the question.

SECTION 2-12 ORDINANCE, ENACTING CLAUSE.

The enacting clause of all ordinances passed by the council shall be, "Be it ordained by the Council of the City of Choctaw, Oklahoma", and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the City of Choctaw, Oklahoma."

SECTION 2-13 ORDINANCES, PASSAGE, PUBLICATION, WHEN IN EFFECT.

- A. Every proposed ordinance shall be read, and an affirmative vote of a majority of all the councilmen shall be required for its passage. The vote on final passage of every ordinance shall be by roll call, and shall be entered in the journal. The mayor shall have no power of veto.
- B. Within ten (10) days after its passage, every ordinance shall be published in full or by number, title, and brief gist in a newspaper of general circulation within the city.
- C. Every ordinance except an emergency ordinance, so published, shall become effective thirty (30) days after its final passage unless it specifies a later time; provided, that a franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the city and has been approved at an election by a vote of a majority of the qualified electors voting on the question.

SECTION 2-14 ORDINANCES, EMERGENCY.

An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of peace, health, or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least five (5) councilmen shall be required for the passage of an emergency ordinance. An emergency ordinance shall take effect upon passage unless it specifies a later time.

SECTION 2-15 ORDINANCES, ADOPTION BY REFERENCE.

The council by ordinance may adopt by reference codes, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the city clerk. Copies shall also be kept for sale to the public at approximate cost to the city.

SECTION 2-16 CODIFICATION.

The permanent, general ordinances of the city shall be codified and published in book or pamphlet form at least every ten years unless the council, by use of a loose-leaf or supplement system, provides for keeping the code up to date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city, and this charter. A copy of the published code shall be filed in the office of the city clerk after the council adopts the code by ordinance, but the code need not be enrolled in the book of ordinances.

SECTION 2-17 INITIATIVE AND REFERENDUM.

The powers of the initiative and referendum are reserved to the people of the city. In the exercise of these powers, the requirements of the state constitution and law shall be observed.

ARTICLE C

CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS

SECTION 3-1 CITY MANAGER; APPOINTMENT; TERM; QUALIFICATIONS; REMOVAL.

- A. There shall be a city manager. The council shall appoint him for an indefinite term by a vote of the majority of all its members. It shall choose him on the basis of his executive and administrative qualifications. At the time of his appointment, he need not be a resident of the city of state; but, during his tenure of office, he shall reside within the city limits or within the Choctaw-Nicoma Park School district. Neither the mayor nor any other councilman hereafter elected may be appointed city manager or acting city manager during his term or within two (2) years after the expiration of his term. (Amended April 6, 1999)

- B. The council may suspend or remove the city manager at any time by a vote of a majority of all its members; provided, that the council shall give him a written statement of the reason for the proposed removal at least thirty (30) days before removal, and on request shall give him an opportunity for a public hearing thereon at or after the expiration of such time before removing him.

SECTION 3-2 TEMPORARY ABSENCE OR DISABILITY OF CITY MANAGER.

By letter filed with the city clerk, the city manager may designate, subject to council approval, a qualified city administrative officer to be acting city manager during his temporary absences or disabilities. The city manager or the council may revoke such designation at any time and another person may be designated acting city manager to serve during such times. If the city manager fails to make such designation, the council may appoint an acting city manager to serve during such time. The council may remove an acting city manager at any time.

SECTION 3-3 CITY MANAGER: POWERS AND DUTIES.

The city manager shall be chief administrative officer and head of the administrative branch of the city government. He shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefore to the council. He shall:

- 1. Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote, or remove all directors, or heads, of administrative departments and all other administrative officers and employees of the city except as he may authorize the head of a department, an officer, or an agency to appoint, lay off, suspend, demote, and remove subordinates in such department, office, or agency;

- 2. Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees;

- 3. Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which he deems desirable;

- 4. Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year;

5. Keep the council advised of the financial condition and future needs of the city, and make such recommendations to the council on matters of policy and other matters as may seem to him desirable; and
6. Have such other powers and duties as this charter may prescribe, and such powers and duties consistent with this charter as the council may prescribe.

SECTION 3-4 ADMINISTRATIVE DEPARTMENTS, OFFICES, AND AGENCIES.

There shall be such administrative departments, offices, and agencies as this charter establishes and as the council may establish.

ARTICLE D

DEPARTMENT OF FINANCE: FISCAL AFFAIRS

SECTION 4-1 DEPARTMENT OF FINANCE, CITY TREASURER.

There shall be a department of finance, the head of which shall be the city treasurer. The city manager shall appoint the city treasurer for an indefinite term. Subject to and in accordance with this charter, applicable law, and such ordinances and other policies as the council may adopt, the city treasurer or personnel under his supervision and control shall collect or receive revenue and other money for the city; shall be responsible for its custody, safekeeping, deposit, and disbursement; shall maintain a general accounting system for the city government; and shall have such other powers and duties consistent with this charter as may be prescribed by ordinance or applicable law.

SECTION 4-2 PURCHASES AND SALES.

- A. The city manager, subject to any regulations which the council may adopt, shall contract for and purchase, or issue purchase authorizations for, all supplies, materials, and equipment for the offices, departments, and agencies of the city government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the council. The city manager also may transfer to or between offices, departments, and agencies, or sell, surplus or obsolete supplies, materials, and equipment, subject to such regulations as the council may adopt.
- B. Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions, as the council may prescribe, shall be given; but the council shall not except an individual contract, purchase or sale from the requirement of competitive bidding.
- C. The council by ordinance may transfer some or all of the power granted to the city manager by this section to an administrative officer subordinate to the city manager.

SECTION 4-3 SALE OF PROPERTY VALUED AT MORE THAN \$15,000.00.

The sale of any city property, real or personal, including public utilities, or of any interest therein, the value of which is more than Fifteen Thousand Dollars (\$15,000) may be made only by:

1. Authority of an affirmative vote of a majority of the qualified electors of the city who vote on the question of approving or authorizing the sale at an election, or
2. Authority of a special non-emergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten (10) days after its passage, and shall include a section reading substantially as follows:

"Section _____. This ordinance shall be referred to a vote of the electors of the city if a sufficient and lawful referendum petition is properly filed within thirty (30) days after its passage, otherwise it shall go into effect thirty (30) days after its passage." The sale of an entire public utility may be authorized only as provided in 1. hereinabove.

SECTION 4-4 PUBLIC IMPROVEMENTS.

Public improvements may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the city manager to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. A contract for public improvements of more than Two Thousand Dollars (\$2,000) may be awarded only to the lowest and best responsible bidder after such notice and opportunity for competitive bidding the council may prescribe. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

SECTION 4-5 FISCAL YEAR.

The fiscal year of the city government shall begin on the first day of July and shall end on the last day of June of every calendar year.

SECTION 4-6 INDEPENDENT ANNUAL AUDIT.

The council shall designate a certified public accountant or firm of such accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices, and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the council and the city manager.

ARTICLE E

MUNICIPAL COURT

SECTION 5-1 MUNICIPAL COURT.

Cases arising out of violations of the ordinances of the city shall be tried by the existing municipal court created by state law or a lawful successor of such court created by state law; provided, that the council by ordinance shall have power to create a municipal court to hear and determine such cases if and when it deems it necessary or desirable to do so.

ARTICLE F

ELECTIONS

SECTION 6-1 NO CITY PRIMARY, GENERAL ELECTION ONLY.

There shall be no city primary election, but only a city general election, herein also called election. A general election shall be held on the first Tuesday in April of 1975 and of every second year thereafter.

SECTION 6-2 ELECTION, TERMS, NONPARTISAN ELECTIONS.

- A. At the election in 1975 and in every fourth year thereafter, the mayor, the councilman from ward one, the councilman from ward three (3), and the councilman from ward five (5) shall be elected for terms of four (4) years.
- B. At the election in 1975, the councilman from ward two (2), the councilman from ward four (4), and the councilman from ward six shall be elected for terms of two (2) years.
- C. At the election in 1977 and in every fourth year thereafter, the councilman from ward two (2), the councilman from ward four (4), and the councilman from ward six (6) shall be elected for terms of four (4) years.
- D. The mayor and other councilmen shall serve for the terms indicated, and until their respective successors are elected and qualify. Their terms shall begin on the second Monday following their election. If a mayor-elect or other councilman-elect fails to qualify within one month after the beginning of his term, his office shall become vacant, and the vacancy shall be filled as other vacancies in the council are filled.
- E. The mayor shall be elected at large, by the qualified electors of the entire city. The councilmen from the wards shall be elected by ward, by the qualified electors of their respective wards.
- F. The elections shall be nonpartisan; and no party designation or emblem shall be placed on the ballots.
- G. Nothing in this charter shall prohibit the use of voting machines.

SECTION 6-3 WARDS, NUMBER, EQUAL.

- A. There shall be six (6) wards, which shall be numbered from one to six (6). The council by ordinance may change the ward boundaries.
- B. The wards shall be formed of compact, contiguous territory, and shall be substantially equal in population.
- C. At intervals of not more than five (5) years, the council shall review the wards and their boundaries, and if necessary, shall revise them to achieve and maintain substantial equality in population among the wards.

SECTION 6-4 ELECTION, FILING.

Any person qualified for the office for which he is filing may have his name placed on the ballot for the election as a candidate for mayor or councilman from his ward by filing, not more than one month and at least three (3) weeks prior to the election, with the secretary of the county election board, a sworn statement of his candidacy, and making any deposit required by law.

SECTION 6-5 ELECTION, TIME.

An election shall be held on the first Tuesday in April of every odd-numbered year to elect the mayor and/or other councilmen to succeed those whose terms are expiring in the respective year. If only one person is a candidate for an office to be filled, he shall be elected ipso facto; and his name shall not appear on the election ballot. Every qualified elector of the city shall be entitled to vote for one candidate for mayor, and every qualified elector of a ward shall be entitled to vote for one candidate for councilman from his ward.

SECTION 6-6 ELECTION, WHO ELECTED.

In an election, the candidate for each office to be filled receiving the greatest number of votes for that office, shall be elected. In case of failure to elect because of a tie, the election shall be determined from among those tying, fairly by lot, by the county election board in a public meeting.

SECTION 6-7 QUALIFIED ELECTORS.

The term qualified elector as used in this charter means a person who has the qualifications prescribed for electors by the state constitution and law, and who is registered as may be required by law.

SECTION 6-8 ELECTIONS, WHEN NOT HELD.

If there are no candidates and no questions to be voted upon at any election, the election shall not be held.

SECTION 6-9 STATE CONSTITUTION AND LAW TO GOVERN.

The provisions of the state constitution and law applicable to city elections, shall govern such elections in this city insofar as they are applicable and are not superseded by this charter or by ordinance.

SECTION 6-10 POLITICAL ACTIVITY OF OFFICERS AND EMPLOYEES.

No officer or employee of the city except the mayor and other councilmen and personnel who receive no compensation for their services, may work for or against, or attempt to influence, the election or defeat of any candidate for mayor or other councilman; but this shall not prohibit the exercise of one's right to express his opinions and to vote and any other rights guaranteed by the constitution or law of the State or by the Constitution or law of the United States. Violation of this section shall constitute cause for removal from office or employment.

ARTICLE G

RECALL

SECTION 7-1 RECALL AUTHORIZED.

The mayor or any other councilman may be recalled from office by the electors qualified to vote for the election of a successor to the incumbent, in the manner provided in this article.

SECTION 7-2 RECALL PETITION.

- A. To initiate recall proceedings, a written statement proposing the recall of the mayor or other councilman shall be signed by twenty (20) or more qualified electors of the city or ward concerned, as the case may be, and shall be filed with the city clerk after the incumbent has held the office at least four (4) months. The statement shall also contain the reason or reasons for which the recall is sought, in not more than two hundred (200) words. Within five (5) days, the city clerk shall mail a copy of such statement by registered, certified, or similar special mail to the officer at his residential address. Within ten (10) days after the statement is mailed to the officer, the officer may make and file with the city clerk a written statement in duplicate justifying his conduct in office, in not more than two hundred (200) words; and the city clerk on request shall deliver one copy to one of the persons filing the statement proposing the recall.
- B. The petition for recall shall include a demand that a successor to the incumbent sought to be recalled be elected, and shall also include before the space where the signatures are to be written the statement giving the reason or reasons for recall under the heading "STATEMENT FOR RECALL", and if the officer has filed a statement as authorized, the statement justifying his conduct in office under the heading "STATEMENT AGAINST RECALL". The two (2) statements shall be in letters of the same size. A copy of the petition shall be filed with the city clerk within one month after recall proceedings are initiated by the filing of the first statement, and before the petition is circulated.
- C. A number of qualified electors of the city or ward concerned equal at least to twenty percent (20%) of the total number of votes cast for governor in the city or ward at the last general state election at which a governor was elected, must sign the petition. Each signer shall write after his name his address within the city, giving street or avenue and number, if any. Not more than one hundred (100) signatures may appear on single copy of the petition. Petitions may be circulated only by qualified electors of the city or ward concerned; and the person who circulates each copy of the petition shall sign an affidavit on the copy stating that each signer signed the petition in his presence, that each signature on the petition is genuine, and that he believes each signer to be a qualified elector of the city or ward concerned.
- D. The circulated petition shall be filed with the city clerk not later than one month after the filing of a copy as provided above. Within one month after date of filing of the circulated petition, the city clerk shall examine it and ascertain whether it has been prepared and circulated as required, and whether the required number of qualified electors of the city or ward concerned have signed it. He shall then attach his certificate to the petition. If his certificate states that the petition has not been prepared and circulated as required and/or lacks a sufficient number of signatures, the petition shall have no effect. But, if the city clerk's certificate states that the petition has been prepared and circulated as required and has a sufficient number of signatures, he shall submit the petition and certificate to the council at its next meeting.

SECTION 7-3

RECALL ELECTION, COUNCIL TO ORDER.

- A. The council, by resolution or ordinance passed within one month after receiving the petition and certificate of the city clerk, shall order and fix the date for a recall election, which shall be held not less than thirty (30) days, nor more than fifty (50)

days, after passage of the resolution or ordinance. The city clerk shall cause the resolution or ordinance ordering the election to be published in full in a newspaper of general circulation within the city within ten (10) days after its passage; and such publication shall be sufficient notice of the election.

- B. The qualified electors of the city may vote in a recall election on the election of successors to more than one officer on the same day.

SECTION 7-4 SAME: HOW HELD.

- A. The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one month thereafter; and if he fails to do so, the office shall be vacant, and the vacancy shall be filled as other vacancies in the council are filled. A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he shall continue in office without interruption; and recall proceedings may not again be initiated against him within one year after the election.
- B. The provisions of this charter relating to city elections shall also govern recall elections insofar as they are applicable and are not superseded by the provisions of this article.

SECTION 7-5 PERSON RECALLED OR RESIGNING.

A person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against him, may not hold any office or position of employment in the city government within two (2) years after his recall or resignation.

ARTICLE H

OFFICERS AND EMPLOYEES GENERALLY

SECTION 8-1 MERIT SYSTEM CREATED; APPOINTMENT, REMOVALS, ETC; PERSONNEL RULES.

A merit system is hereby established for personnel in the city service. Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and lay-offs shall be made solely for the good of the service. The council, consistently with this charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

SECTION 8-2 PERSONNEL BOARD CREATED.

- A. There shall be a personnel board consisting of three (3) members appointed by the council for overlapping three-year terms. The term of one member shall begin July 1 in every year. The council shall appoint the original members so that the term of one will expire at that time in each of the first three (3) succeeding years. A member may

not hold any other office or position of employment in the city government. The council, by a vote of a majority of all its members, after adequate opportunity for a public hearing, may remove a member of the personnel board for the good of the service; and the vote shall be by roll call and shall be entered in the journal. The council shall fill vacancies for the unexpired terms. Members shall serve without compensation unless the council provides otherwise.

- B. At the time prescribed for the beginning of the term of a newly appointed member or as soon thereafter as practicable, the board shall elect a chairman, a vice chairman, and a secretary; and the secretary need not be a member of the board. The board shall determine the time and place of its regular meetings, and the chairman or two (2) members may call special meetings. The chairman shall have power to administer oaths and affirmations.
- C. The personnel board shall have power to subpoena officers and employees of the city and other persons to testify and to produce documents and other effects as evidence.

SECTION 8-3 CLASSIFIED AND UNCLASSIFIED SERVICES.

- A. All officers and employees of the city shall be divided into the classified and the unclassified service.
- B. The following shall constitute the unclassified service:
 - 1. The mayor and other councilmen, the municipal judge or judges, and the city clerk when elected by the council;
 - 2. The city manager, one assistant city manager if any, the principal secretary to the city manager if any, and the city attorney;
 - 3. Members and secretary of each board, commission, or other plural authority;
 - 4. All personnel who serve without compensation;
 - 5. All temporary and all part-time officers and employees, except those whom the council may place in the classified service by ordinance or personnel rules; and
 - 6. Not to exceed ten additional officers and/or employees whom the council may place in the unclassified service by ordinance or personnel rules after the city reaches a population of twenty thousand (20,000).
- C. All other officers and employees shall be in the classified service.
- D. Nothing herein shall prohibit including unclassified personnel in the classification plan for pay purposes.

SECTION 8-4 REMOVAL, HEARING BEFORE THE PERSONNEL BOARD.

- A. The city manager or any other authority who lays off, suspends without pay for more than ten (10) days, demotes, or removes any officer or employee in the classified service after a probationary period of six (6) months, shall, at that time or within two

Every officer of the city, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the state constitution. The oath or affirmation shall be filed in the city clerk's office.

SECTION 8-10 WHO MAY ADMINISTER OATHS AND AFFIRMATIONS.

All officers authorized by federal or state law, the mayor, the city manager, the city clerk, the municipal judge or judges, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

SECTION 8-11 REMOVAL OF OFFICERS AND EMPLOYEES.

The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect; and the city manager, the council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom he, the council, or the other appointing or electing authority respectively may appoint or elect a successor.

SECTION 8-12 ACTING OFFICERS AND EMPLOYEES.

The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in the case of a vacancy, until a successor is appointed or elected and qualifies, unless the council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The council by general ordinance may provide for a deputy to act in such cases.

SECTION 8-13 OFFICERS TO CONTINUE UNTIL SUCCESSORS ARE ELECTED OR APPOINTED AND QUALIFY.

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

SECTION 8-14 CONFLICT OF INTERESTS.

- A. Neither the mayor, any other councilman, nor the city manager shall sell or barter anything to the city or to a contractor to be supplied to the city; or make any contract with the city; or purchase anything from the city other than those things which the city offers generally to the public (as for example, utility services), and then only on the same terms as are offered to the public. Any officer violating this section, upon conviction thereof, shall thereby forfeit his office. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city, shall render the contract voidable by the city manager or the council. This subsection shall not apply in cases in which the city acquires property by condemnation.

- B. The council by ordinance or personnel rules may further regulate conflict of interests and ethics of officers and employees of the city.

SECTION 8-15 FEMININE GENDER.

When the masculine gender is used in this charter, it shall also include the feminine unless the masculine alone is clearly indicated.

ARTICLE I

DENSITY OF DWELLINGS

SECTION 9-1 DENSITY OF DWELLINGS.

- A. Construction (whether by original construction, alteration, or other manner), location, operation, use, or occupancy of any dwelling unit or units of a greater density than eight (8) single-family units per acre of the lot or parcel of land on which constructed or located, is hereby prohibited within the City of Choctaw.
- B. Subsection A above shall not apply to any dwelling unit or units existing, or for which a building permit has been secured from the town, at the time this charter goes into effect, nor to any student housing institutions of higher education.
- C. Subsection A above shall not limit the power of the city to prescribe standards of lesser density or otherwise to regulate land use within the city.

ARTICLE J

AMENDMENT AND SEPARABILITY OF CHARTER

SECTION 10-1 AMENDMENT, PROPOSAL, RATIFICATION, APPROVAL.

This charter may be amended by proposals therefore submitted by the council or by the mayor upon initiative petition of the electors as provided by the state constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the governor as provided by the state constitution. If more than one amendment is proposed, all of them except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such manner that the electors may vote on them separately. A proposition to amend this charter may be either in the form of a proposed amendment to a part or parts of the charter or of a proposed new charter.

SECTION 10-2 SEPARABILITY.

- A. If a court of competent jurisdiction holds any section or part of this charter invalid, such holding shall not affect the remainder of this charter nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.
- B. If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

ARTICLE K

SUCCESSION IN GOVERNMENT

SECTION 11-1 WHEN CHARTER GOES INTO EFFECT.

This charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the town voting upon the question at an election and its approval by the Governor as provided by the State Constitution; and the government created by this charter shall supersede the heretofore existing town government as of that time.

SECTION 11-2 OFFICERS AND EMPLOYEES TO CONTINUE.

When this charter goes into effect:

1. The chairman of the board of trustees shall become mayor of the city, but not continue as councilman from Ward Four (4); the other trustees shall become the councilmen from their respective wards; the town clerk shall become city treasurer and city clerk ex officio; the town treasurer shall become assistant city treasurer; and the terms of all said officers shall expire on the second Monday after the city election in April 1975;
2. The town marshal shall become chief of police of the city; and all other officers and employees under the town government (including members of boards and commissions) shall continue in their respective offices and positions of employment under this charter; and all of said officers and employees shall be subject to the provisions of this charter; and
3. The compensation of persons continuing in offices and positions under this charter shall continue at the same rates until changed by the council.

SECTION 11-3 NUMBER OF COUNCILMEN DURING FIRST 120 DAYS, SIX (6) WARDS TO BE CREATED, TWO (2) ADDITIONAL COUNCILMEN TO BE APPOINTED.

- A. Notwithstanding any other provision of this charter, the council shall consist of five (5) members (the mayor and four (4) other councilmen) during the first one hundred twenty (120) days that this charter is in effect; and during said period only four (4) affirmative votes of the council shall be necessary to pass an emergency ordinance.
- B. During this period, the council shall pass an ordinance dividing the city into six (6) wards, which ordinance shall go into effect at the end of the said 120-day period. Within sixty days (60) days after this ordinance goes into effect, the council shall appoint a councilman from the new Ward Four (4) and a councilman from the new Ward Six (6), who shall serve until the second Monday after the city election in April 1975.

SECTION 11-4 ORDINANCES CONTINUED.

All ordinances, insofar as they are not inconsistent with this charter, shall continue in effect until they are repealed or until they expire by their own limitations.

SECTION 11-5

PENDING ACTIONS AND PROCEEDINGS.

The adoption of this charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency, or officer thereof.