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THE CITY OF CHEROKEE, KANSAS
ORDINANCE 557

AN ORDINANCE ADDING ARTICLE 5=4 TO CHAPTER 4 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, REGULATING BUILDINGS AND CONSTRUCTION WITHIN THE CORPORATE LIMITS OF THE CITY OF CHEROKEE, KANSAS, BY ADOPTING BY REFERENCE THE 2021 EDITION OF THE INTERNATIONAL BUILDING CODE, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS:

Chapter 4 of the Code of the City of Cherokee, Kansas is hereby amended by adding Article 4 to provide as follows:

ARTICLE 4 BUILDING CODE

4-401: DEFINITIONS. As used in this ordinance, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

- (a) Whenever the word municipality is used in the building code, it shall be held to mean the City of Cherokee, Kansas;
- (b) Whenever the term corporation counsel is used in the building code, it shall be held to mean the city attorney of the City of Cherokee;
- (c) Whenever the term building official is used in the building code, it shall be held to mean the City Building Inspector or his or her authorized designee.

4-402: 1INTERNATIONAL BUILDING CODE INCORPORATED. There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, the International Building Code, 2021 Edition, as recommended by the International Conference of Building Officials, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. One copy of the International Building Code, 2021 Edition, shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cherokee," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

4-403: ADDITIONAL PROVISIONS. The following sections are in addition to the provisions of the standard code incorporated by reference in Section 4-402.

- (a) All references to the International Existing Building Code, International Plumbing Code,

and the International Energy Conservation Code are deleted.

- (b) All references to the International Code Council Electrical Code are deleted and replaced with references to the current adopted National Electric Code (NEC).
- (c) All references to Section 903.2.8.1 Automatic Sprinkler Systems for Group R-3 Occupancies for one and two family dwellings are hereby deleted in accordance with K.S.A. 12-16-219.

4-404: BUILDING OFFICIAL; POWERS; DUTIES.

- (a) This and other ordinances of the city relating generally to building and structures shall be administered and enforced by the City Building Inspector. The City Building Inspector shall act as chief building official and may assume the responsibilities of or with the consent and approval of the governing body appoint a building inspector and such other assistants as may be advisable for the issuance of building permits and the inspection of building work.
- (b) The City Building Inspector shall prepare such application, permit, inspection and record forms as may be required for the purposes of the ordinance. The City Building Inspector may make and promulgate the necessary rules and regulations to obtain conformity with this ordinance pertaining to the making of applications for building permits, issuing of building permits and inspecting of buildings and building works.

4-405: BUILDING INSPECTOR; APPOINTMENT. The City Building Inspector may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of building inspector as may be required, subject to the consent and approval of the governing body.

4-406: SAME; DUTIES. The building inspector shall have the following duties:

- (a) To enforce all regulations relating to construction, alteration, repair, removal and demolition of building and structures;
- (b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this ordinance, and may, for the purpose of carrying out the intent of this ordinance adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;
- (c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and;
- (d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official without his or her written consent.

4-407: SAME; POWERS. The building inspector shall have the following powers:

- (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties;
- (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;
- (c) May cause any work done in violation to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body.

4-408: SAME; RIGHT OF ENTRY. The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties.

4-409: CLARIFICATION; MODIFICATION.

- (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.
- (b) The building inspector shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the building inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building inspector and a signed copy shall be furnished to the applicant.

4-410: BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL. It shall be unlawful for any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done within the city without a building permit being first obtained therefor from the city clerk, after approval by the chief building official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure or the foundation thereof, or before the removal of any building begins.

4-411: SAME; APPLICATION INFORMATION REQUIRED.

- (a) A building permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:
 - 1. The name of the owner of the lot or tract of ground;
 - 2. The location of the building or structure;
 - 3. The building work proposed;
 - 4. The outside dimensions of the building by floors and dimensions of the basement

(if any);

5. The class of occupancy;
 6. The class of construction;
 7. The kind of materials to be used for walls, floors, ceilings, roofs, and foundations;
 8. The estimated cost of the work;
 9. The date work will commence;
 10. Expected date of completion;
 11. Name and address of contractor or contractors doing the work;
 12. Such other information as may be pertinent to the issuance of the required permit.
- (b) An application for a building permit shall be signed by the owner or his or her duly authorized agent, or a building contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed contractor or contractors doing the work described, or a building permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed contractor, and likewise subject to the final approval of the building inspector for work performed.
1. If an application for a building permit indicates that it is for commercial or residential roofing services, including construction, installation, renovation, repair, maintenance, alteration or waterproofing, the application shall include the contractor's name, the contractor's place of business within the city (and home office if not a resident), the contractor's state registration number as issued under the Kansas Roofing Registration Act (K.S.A. 50-6,121, *et seq.*), and shall also be signed by the roofing contractor or contractor's authorized agent. Provided, however, that this subsection shall not apply to:
 - i. an actual owner of commercial or residential property who physically performs, or has employees who perform, roofing services on such owner's own dwelling or other structures located on the residential property without the assistance of a registered roofing contractor.
 - ii. to those persons identified in K.S.A. 50-6,129(a)(1) through (8), and amendments there to.
 - iii. to an "exempt general contractor", as defined in K.S.A. 50-6,122, and amendments thereto.
 2. If the application for a building permit indicates that it involves renovation, repairing or painting of a home or child-occupied facility, including day care centers and schools, built before 1978 and will disturb six square feet of painted interior surfaces or 20 square feet of painted exterior surfaces, the contractor performing the services must furnish proof of Kansas certification as a licensed renovation firm or renovator. Provided, however, that this subsection does not apply to a home owner performing work on an owner-occupied residence. In addition, this subsection does not apply to any other exception or exemption set forth in the Kansas Department of Health and Environment Renovation, Repair and Painting Rule, as described in K.A.R. 28-72-1 through 28-72-53 and in 40 CFR Part 745, and amendments thereto.
- (c) Upon approval of the completed application, including, if required, the verification of state roofer registration or other state certification, and a determination that a permit should be issued, the chief building official or his or her assistant shall issue a permit to

the owner or contractor authorizing the building work covered by the application. If applicable, the permit shall include the roofer registration number or any other certification or license number issued by the state.

- (d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. Building work commenced for the purpose of this section shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract.

4-412: SAME; PLANS AND SPECIFICATIONS. Whenever an application for a building permit is made, the chief building official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the inspector to determine compliance. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any building work for conformity.

4-413: SAME; FEES. The fee for a building permit shall be \$150.00, however no fee shall be required to obtain a permit where the total estimated cost, the reasonable value of all services, labor and materials required, is under \$500.00. The fee herein shall be paid to the city clerk upon obtaining a building permit and the same shall be credited to the general operating fund of the city.

4-414: SAME; POSTING. A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The building inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof.

4-415: CERTIFICATE OF APPROVAL. Upon the completion of any work under a building permit, the chief building official, the building inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use of the building or structure. The certificate shall show the number of inspections made and the orders and corrections required during the course of the work. A copy of such certificate shall be given the owner.

4-416: INSPECTIONS OF BUILDING; LAYOUT OF BUILDING; FOUNDATIONS AND FOOTINGS; NOTICE TO INSPECTOR.

- (a) The contractor or builder having a permit for new construction, or additions to existing buildings, shall notify the chief building official or building inspector immediately upon the marking or laying out of the site and foundation for such work. The official or

inspector shall inspect the layout for conformity and with respect to lot lines, setbacks and location of the proposed buildings to determine conformity with the city zoning regulations. In case of doubt respecting the required location, the chief building official may require an official survey of the lot lines to determine conformity, at the expense of the permit holder.

- (b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the official or inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings.
- (c) The building inspector shall during the course of all building make such other inspections as may be directed by the chief building official to be made during any successive stage of the construction or other work covered by a permit in order to secure compliance with laws pertaining thereto.

4-417: REQUEST FOR INSPECTION. Upon the completion of any building construction work, it shall be the duty of the person doing such work to notify the building inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.

4-418: INSPECTION FEE. An initial inspection fee of \$75.00, and an inspection fee of \$50.00 for subsequent inspections required shall be paid before any building or construction work will be approved or a certificate of approval issued.

4-419: BUILDER OR BUILDING CONTRACTOR DEFINED.

- (a) A builder or building contractor for purposes of this ordinance shall be any person, firm, co- partnership, corporation, association, or any combination thereof, whether a resident or not of the city:
 - 1. Who or which undertakes with or for another, for a fixed sum, price, fee or any compensation other than wages, to build, construct, alter, repair, add to, wreck or move any building or structure (or any portion thereof), or any sidewalk, driveway entrance or structure in any street, or any advertising sign, panel poster or billboard, or any other structure, in the city, for which a building or construction permit may now or hereafter be required by the laws of the city; or
 - 2. Who or which advertises or represents himself, herself, or itself to the public to have the capacity or ability to undertake, or submit a bid or offer to build, construct, alter, repair, add to or wreck, remove, restore or replace any building, structure or construction work or any portion thereof; or
 - 3. Who or which builds, constructs, alters, adds to or wrecks any buildings or structures either on his or her own or other property for purposes of sale or speculation.
- (b) A builder or building contractor as defined shall not mean or include:
 - 1. Any subcontractor, except for a roofing contractor, working under the supervision of a general contractor; or
 - 2. Any plumbers, gas fitters, electricians, or other specialized occupation for which

- special licenses or bonds are required by other city laws; or
3. Any owner or his or her authorized agents or employees making ordinary repairs to his, her or its own building or structure not involving the structural parts of the building for which a permit is not required or on which a contractor, as defined, is not required, employed or engaged to perform; or
 4. Any property owner personally performing any improvements, alterations or building construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the building official as to his or her ability to perform such work secure a permit, pay required fees, do work in accordance with this ordinance, and apply for an inspection and receive approval. Personal building construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor licensed by the city;
 5. Any person engaged in construction work not involving a total cost of greater than \$500.00, exclusive of labor.

4-420: BUILDER'S OR BUILDING CONTRACTOR'S LICENSE REQUIRED;
BUILDING PERMITS; UNLAWFUL ACTS.

- (a) Each builder or building contractor shall before entering upon any building or construction work subject to regulation by city laws, apply to the city clerk for a builder's or building contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of a builder or building contractor in the city.
- (b) No permit for any building or construction work shall be issued for any such work to be performed by a builder or building contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.
- (c) It shall be unlawful for any person, firm, company, association or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of builder or building contractor herein, or to perform any work as a builder or building contractor or any work under a contract for any work involving the construction, wrecking or moving of any building, without first having obtained a builder's or building contractor's license issued by the city.

4-421: SAME; APPLICATION; GRANTING.

- (a) Application for a builder's or building contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a nonresident), the kind of contracting work engaged in (as general contracting, roofing, siding, masonry, plastering, lathing, excavating, waterproofing, metal work, foundation work, sign hanging, cement work and painting and paper hanging, house wrecking or moving and the like), the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the builder or building contractor or his or her

authorized agent. The applications shall be, by the chief building official, referred to the governing body at its next meeting for action thereon. Such license shall be issued by the city clerk, upon payment of the fees hereinafter provided after approval of the governing body.

- (b) If the applicant is in the business of a roofing contractor, as defined by the “Kansas Roofing Registration Act” (KRRA), K.S.A. 50-6,121, *et seq.*, and amendments thereto, the applicant shall be required to have a valid state registration as required under the KRRA and shall present such certificate to the city clerk when applying for a builder’s or building contractor’s license. No such license shall be issued until it is verified that the roofing contractor is in good standing pursuant to the KRRA. Provided, however, that this subsection does not apply to an “exempt general contractor” as defined in K.S.A. 50-6,122, and amendments thereto.

4-422: SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

- (a) The following license fees shall be paid for the calendar year or major fraction thereof:
1. General Builder or Building Contractor, who shall qualify to engage in more than one kind of contract work, except house moving, the sum of \$100.00;
 2. Limited Builder or Building Contractor, who shall qualify to engage in not more than one kind of contract work, the sum of \$50.00;
 3. House Wreckers or Movers, the sum of \$100.00;
 4. Sign Hangers and Panel Posters, the sum of \$100.00; and
 5. Roofing Contractor, the sum of \$100.00.

Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

- (b) Each such license shall set forth the kind of contract work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in contract work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before the first day of January of the year for which issued.
- (c) It shall be unlawful for any person, firm or corporation to contract for any kind of work covered without having a valid license issued by the city to perform such contracts.

4-423: BUILDER'S OR BUILDING CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED.

- (a) Before any license shall be issued, to any builder or building contractor required to obtain a license and pay a fee to the city, the builder or building contractor shall secure and file with the city clerk a good and sufficient corporate surety bond in the principal sum of \$5,000.00 conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her or its employees, agents, servants to use due care or diligence

respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the State of Kansas and shall be executed by an agent of the company residing in the County of Crawford, Kansas and further conditioned that in the event of cancellation or expiration that the company or agent will give 10 days notice of such fact to the city clerk. Each such bond shall be approved as to form by the city attorney and approved as to surety by the City Building Inspector and the approval thereof shall be endorsed on the bond by the city attorney and by the Mayor over their signatures.

- (b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover a period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required.

4-424: INSURANCE. In addition to obtaining a corporate surety bond as required by Section 4-423, a builder or building contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. A builder or building contractor may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required and that such insurer will not cancel the policy except upon giving 30 days notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year.

4-425: LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

- (a) The license of any builder or building contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the chief building official upon his or her own motion or upon a complaint of the city building inspector. Notice shall be given in writing to such builder or building contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such builder or building contractor involving any one or more of the following:
1. Misrepresentation of a material fact by applicant in obtaining a license;
 2. Use of license to obtain a building permit for another;
 3. Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
 4. Performance of any building or construction work without a permit where one is required by law; or
 5. Willful disregard of any violation of the building and construction laws, or failure to comply with any lawful order of the city building inspector.
- (b) Any licensee may within 15 days appeal in writing to the governing body from any order

of the chief building official suspending his or her license for its final decision thereon. The governing body may upon such hearing terminate such suspension within not more than 30 days thereafter, or may revoke such license. If any license shall be revoked, the builder or building contractor shall not be eligible for a new license during a period of six months thereafter. No fee shall be refunded in event of the suspension or revocation of any contractor's license.

- (c) It shall be unlawful to engage in the occupation or trade of builder or building contractor during the time any license of such builder or building contractor has been suspended or revoked.

4-426: WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the building inspector as to his or her ability to perform such work, secure a permit, pay required fees, and apply for an inspection and receive a certificate of approval. Personal building or construction performed by an owner shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor licensed by the city.

4-427: LIABILITY. This shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

4-428: SEVERABILITY. If any section of the International Building Code shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF
CHEROKEE, KANSAS, this December 12, 2023.

(SEAL)

J. Dale Thompson, Mayor

ATTEST:

Pamela Tompkins, City Clerk