

## CHARTER ORDINANCE NO. 2016-1

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHEROKEE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-201 AND L. 2015, CHAPTER 88, SECTION 71, AND K.S.A. 25-2108a RELATING TO THE ELECTION OF OFFICERS, THEIR TERMS OF OFFICE, TRANSITIONS TO NOVEMBER ELECTIONS, THE FILLING OF GOVERNING BODY VACANCIES, AND NOMINATION PETITIONS; HOLDING OF PRIMARY ELECTIONS WITHIN SAID CITY AND, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND REPEALING CHARTER ORDINANCE NO. 2001-1, CHARTER ORDINANCE 2007-1 AND AMENDING SECTION 6-103 OF THE CODE OF THE CITY OF CHEROKEE.

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

**Section 1.** The City of Cherokee, Kansas, by the power vested in it by Article 12, Section 5 of the Kansas Constitution hereby elects to and does exempt itself and make inapplicable to it the provisions of K.S.A. 15-201 and L. 2015, Chapter 88, Section 71, which applies to this city, but is part of an enactment which does not apply uniformly to all cities.

**Section 2.** The governing body shall consist of a mayor and five council members to be elected to terms as set forth herein. The mayor and council members shall be residents and qualified electors of the City of Cherokee, Kansas.

**Section 3.** Those governing body positions with terms expiring in April 2017, shall expire on the second Monday in January of 2018, when the city officials elected in the November 2017 general election take office. Those governing body positions with terms expiring in April 2019, shall expire on the second Monday in January of 2020, when the city officials elected in the November 2019 general election take office.

**Section 4.** General elections shall take place on the Tuesday succeeding the first Monday in November 2017. Succeeding elections will be held every two years for all such governing body positions whose terms have expired. A mayor and two council members shall be elected at one election, and the remaining three council members shall be elected at the succeeding election. The mayor and all council members shall have four year terms.

**Section 5.** Regardless of the number of candidates who have filed for election for any city office, there shall be no necessity of a primary election, and every person



who has filed for any city office shall be listed on the ballot and shall be voted on by the voters at the general election of city officers, to be held on the Tuesday succeeding the first Monday in November each election year. The person among the candidates who receives the largest number of votes at such general election shall be declared the winner of said election. If more than one position is to be filled at the said election, the person who receives the second (2<sup>nd</sup>) largest number of votes at such general election shall be declared the winner for such second position. The same rules shall apply for any additional positions to be filled as a result of said election.

**Section 6.** In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy. The procedure set forth in L. 2015, Chapter 88, Section 71, relating to the filling of governing body vacancies shall not be applicable to the City of Cherokee, rather the procedure set forth in this section and Section 7 set forth below shall apply to the filling of governing body vacancies.

**Section 7.** In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor.

**Section 8.** In accordance with K.S.A. 25-205, and amendments thereto, any person may become a candidate for city office elected at large by having had filed on their behalf, a nomination petition or a declaration of candidacy, accompanied by any fee required by law. The nomination petition must be signed by ten (10) of the qualified electors of the City of Cherokee.

**Section 9.** That all ordinances and parts of ordinances that are in conflict with this ordinance are hereby repealed.


**Section 10.** This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

**Section 11.** This Charter Ordinance shall take effect 61 days after the final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the ordinance as provided by Article 12, Section 5, Subsection (c)(3) of



the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective upon approval by the majority of the electors voting thereon.

Passed by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, this 10 day of March, 2016.

  
Dale Thompson  
Mayor

Attest: 

Marianne Kossman  
City Clerk  
[SEAL]



## ORDINANCE CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said ordinance was passed on the 10 day of March, 2016; that the record of the final vote on its passage is found in Minutes of March 10, 2016; that it was published in **The Morning Sun** on the 25 day of March, 2016. <sup>2</sup>  
1 day of April, 2016

Marianne Kossman, City Clerk  
Marianne Kossman



## CHARTER ORDINANCE NO. 2016-2

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE 2015-1 EXEMPTING THE CITY OF CHEROKEE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-204 AND AMENDING SECTION 1-301 OF THE CODE OF THE CITY OF CHEROKEE RELATING TO APPOINTMENT AND COMPENSATION OF OFFICERS AND MODIFYING THE DATE OF APPOINTMENT OF SUCH OFFICERS.

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

**Section 1.** The City of Cherokee by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to and does exempt itself a make inapplicable to it K.S.A. 15-204 which applies to this city, but is part of an enactment which does not apply uniformly to all cities.

**Section 2.** This Charter Ordinance hereby repeals previously adopted Charter Ordinance 2015-1 and hereby amends Article 3, Section 1-301 of the Code of the City of Cherokee.

**Section 3.** By virtue of L. 2015, Chapter 88, Section 7, relating to the transition to a new election cycle, the appointment of city officers is hereby modified. Section 1-301 of the Code of the City of Cherokee is hereby amended to read as follows:

APPOINTMENT. At the first regular meeting in February of each year, commencing February 2017, the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, chief of police and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body and by passage of an ordinance by the governing body. The passage of an ordinance to establish or create the duties and pay of the officers each year shall not be regulated by ordinance and the City of Cherokee is hereby exempt from such requirements set forth in K.S.A. 15-204.

**Section 4.** By virtue of L. 2015, Chapter 88, Section 7 relating to the transition to a November election cycle, all presently appointed officers set forth in Section 3 above shall retain his or her respective appointment and such term of appointment shall be extended until the appointment by the Mayor and Council at the first regular meeting in February 2017 unless a vacancy should arise.

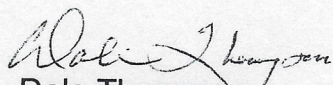



**Section 5.** That all ordinances and parts of ordinances that are in conflict with this ordinance are hereby repealed.

**Section 6.** This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

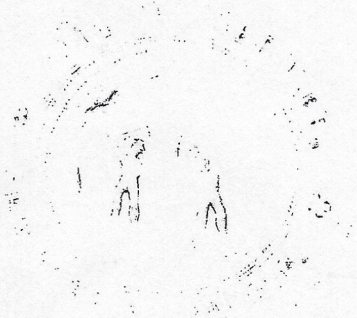
**Section 7.** This charter ordinance shall take effect 61 days after final publication, unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by the majority of the electors voting thereon.

Passed by the Governing Body, not less than two-thirds of the members-elect voting in favor thereof, the 10 day of March, 2016.

  
Dale Thompson  
Mayor, City of Cherokee

ATTEST: 

Marianne Kossman  
City Clerk  
(SEAL)





### **CHARTER ORDINANCE NO. 2016-3**

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE 2014-1 EXEMPTING THE CITY OF CHEROKEE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-209 OF THE CODE OF THE CITY OF CHEROKEE RELATING TO THE QUALIFICATIONS OF APPOINTED OFFICERS.

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

**Section 1.** The City of Cherokee by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to and does exempt itself a make inapplicable to it K.S.A. 15-209 which applies to this city relating to the appointment of nonresidents to serve as appointed officers, but is part of an enactment which does not apply uniformly to all cities.

**Section 2.** This Charter Ordinance hereby repeals previously adopted Charter Ordinance 2014-1.

**Section 3.** The City of Cherokee hereby authorizes the city to appoint nonresidents as city treasurer, city attorney, municipal judge, law enforcement officers and other appointed offices as the city deems necessary. Provided, that nothing herein shall authorize the appointment of nonresidents of this state.

**Section 4.** This Charter Ordinance shall not apply to the qualification of elected officers, specifically the election of council members and the election of the Mayor. All requirements set forth in K.S.A. 15-209, et. seq. shall remain in full force and effect with regard to the qualification and election of the council members and the Mayor.

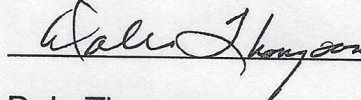
**Section 5.** That all ordinances and parts of ordinances that are in conflict with this ordinance are hereby repealed.

**Section 6.** This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

**Section 7.** This charter ordinance shall take effect 61 days after final publication, unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by the majority of the electors voting thereon.

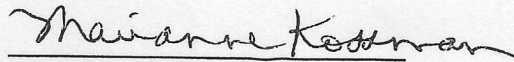


Passed by the Governing Body, not less than two-thirds of the members-elect voting in favor thereof, the 14 day of January, 2016.

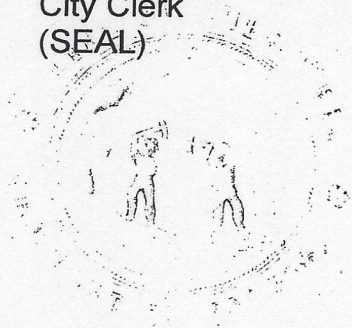
  
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Dale Thompson  
Mayor, City of Cherokee

ATTEST:

  
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Marianne Kossman  
City Clerk  
(SEAL)





## ORDINANCE CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said ordinance was passed on the 10 day of March, 2016; that the record of the final vote on its passage is found in Minutes of March 10, 2016; that it was published in **The Morning Sun** on the 17 day of March, 2016.  $\frac{2}{7}$   
24 day of March, 2016

Marianne Kossman, City Clerk  
Marianne Kossman



## **CHAPTER VII. FIRE**

Article 1. Fire Department

Article 2. Fire Prevention

Article 3. Fireworks

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### **ARTICLE 1. FIRE DEPARTMENT**

7-101. **CITY FIRE DEPARTMENT ESTABLISHED.** The fire department of the city is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief and not more than 20 firefighters who shall reside within the city, or within a four mile radius of the corporate boundaries of the city. Members of the fire department shall be appointed by the mayor and confirmed by the council. (Ord. 460; Code 1999)

7-102. **MEMBERSHIP; FIRE DRILL.** Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend six consecutive meetings shall automatically become expelled from membership. (Code 1999)

7-103. **SUPERVISION OF DEPARTMENT.** The chief of the fire department shall be under the supervision of the mayor and shall have immediate superintendency and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year. (Code 1999)

7-104. **FIRE CHIEF; POWERS.** (a) The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.

(b) The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same.

(c) At fires the chief shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the fire fighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires. (Code 1999)

7-105. **SAME; RECORDS.** The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and



location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable. (Code 1999)

7-106. ASSISTANT CHIEF. In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter. (Code 1999)

7-107. PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep or conceal any tool, appliance, equipment or other article used in any way by the fire department. (Code 1999)

7-108. FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE. (a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while enroute to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.

(b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.  
(Code 1999)

7-109. SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.  
(Code 1999)

7-110. OBSTRUCTION OF FIRE HYDRANT. It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant. (Code 1999)

7-111. FALSE ALARM. It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm.  
(Code 1999)



## ARTICLE 2. FIRE PREVENTION

7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code, edition of 1994, including all the Appendix chapters, and the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 1994 and amendments hereafter, Fire Protection Association (NFPA) 1994 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 1994 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Cherokee, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 1999)

7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1999)

7-203. SAME; AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Cherokee.

(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.  
(Code 1999)

*Open Burning 7-204 replaced by Ord. #498*

7-204. OPEN BURNING. (a) It shall be unlawful for any person to burn any sweepings, trash, lumber, leaves, straw, papers, grass or other combustible material in any street, alley, yard or upon any lot within the limits of the city, except in the manner and form as hereinafter provided in this section.

(b) This shall not prevent the burning of material enumerated in subsection (a), provided same are burned between the hours of 6:00 a.m. and 9:00 p.m., and then not within 30 feet of any frame building or within 15 feet of any brick building or in any manner so as to endanger property.

(c) It shall be unlawful to burn any of the refuse or material enumerated in subsection (a) within the fire limits of the city, except in a refuse burner constructed of iron, steel, brick, concrete or stone in a substantial manner which shall be a closed receptacle, with a tight door at bottom, if any opening there, and the opening at top shall be protected in a secure manner by a wire screen of not less than number nine gauge wire of not to exceed one inch mesh. If such refuse burner is constructed of iron or steel it shall not be thinner than 14 B.W. gauge.

(d) It shall be unlawful to burn any refuse or materials enumerated in subsection (a) within the city, outside of the fire limits except between the hours of 6:00 a.m. and 9:00 p.m. and then only under the supervision of an adult person. Leaves and small brush may be burned in the street only while there is no high wind.

(Ord. 273, Secs. 10:13)



- 7-205. ACCUMULATION OF RUBBISH AND TRASH. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Ord. 377; Code 1999)
- 7-206. STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city. (Ord. 377; Code 1999)
- 7-207. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Ord. 377; Code 1999)
- 7-208. STORAGE OF ASHES. It shall be unlawful to store ashes inside of any nonfireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials. (Ord. 377; Code 1999)
- 7-209. FILLING GASOLINE TANKS OF MOTOR VEHICLES. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (Code 1999)
- 7-210. FIRE HAZARDS GENERALLY. It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire, is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 1999)
- 7-211. SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as



**ORDINANCE NO. 498**

AN ORDINANCE AMENDING SECTION 7-204 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, PROVIDING FOR THE REGULATION OF OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF CHEROKEE, AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 7-204 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

§ 7-204 Open Burning. (a) It shall be unlawful for any person to burn any sweepings, trash, lumber, leaves, straw, papers, grass or other combustible material in any street, alley, yard or upon any lot within the limits of the City, except in the manner and form as hereinafter provided in this section;

(b) This shall not prevent the burning of material enumerated in subsection (a) above, provided such burning shall not be conducted before one half hour after sunrise or after 11:30 p.m.;

(c) It shall be unlawful for any person to burn any of the refuse or material enumerated in subsection (a) within the fire limits of the City, except in a refuse burner constructed of iron, steel, brick, concrete or stone in a substantial manner which shall be a closed receptacle, with a tight door at bottom, if any opening there, and the opening at top shall be protected in a secure manner by a wire screen of not less than number nine gauge wire of not to exceed one inch mesh. If such refuse burner is constructed of iron or steel it shall not be thinner than 14 B.W. gauge;

(d) It shall be unlawful to burn any refuse or materials enumerated in subsection (a) above within the city except between the hours of one half hour after sunrise and 11:30 p.m., and then only under the supervision of an adult person;

(e) It shall be unlawful for any person to burn any refuse or materials enumerated in subsection (a) within the city during inclement weather, high wind, foggy conditions, if there is extensive cloud cover, or if there is a City wide burn ban in effect due to weather conditions;

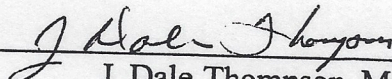
(f) It shall be unlawful for any person to burn any household garbage, including food waste, diapers, aerosol containers, animal waste, cloth material, household chemicals, and insulated wiring within the City at any time; and

(g) Violations of this Section shall be punished as provided in § 1-116 General Penalty above.




PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF  
CHEROKEE, KANSAS, this 12th day of May, 2010.

(SEAL)

  
\_\_\_\_\_  
J. Dale Thompson, Mayor

ATTEST:

  
\_\_\_\_\_  
Ed Burns, City Clerk