

**ORDINANCE NO. 2011-01**

**AN ORDINANCE GRANTING A FRANCHISE TO CHEROKEE VILLAGE WATER WORKS FOR THE PROVISION OF WATER SERVICES WITHIN THE CITY, IMPOSING A FRANCHISE FEE, AND FOR OTHER PURPOSES**

**WHEREAS**, Cherokee Village Water Works provides water services within the corporate limits of the City of Cherokee Village, Arkansas; and

**WHEREAS**, Cherokee Village Water Works makes use of certain city rights-of-way for the location of its infrastructure; and

**WHEREAS**, state law permits the City to impose a franchise fee on any public utility that operates within the City and makes use of City rights-of-way.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHEROKEE VILLAGE, ARKANSAS:**

Section 1: Cherokee Village Water Works, its successors and assigns, is hereby granted a nonexclusive franchise within the City to make use of city-owned rights-of-way for the provision of said services. Cherokee Village Water Works shall have the authority to place, remove, construct, extend and maintain its said plant and appurtenances thereto, along, over, across, on, through, above and under all public streets, alleys avenues, and the public grounds within the corporate limits of the City of Cherokee Village, Arkansas, as said corporate limits are now located or as may hereafter be located.

Section 2: An amount equal to four and one-quarter percent (4.25%) of the water charges collected from each customer within the City of Cherokee Village shall be paid by Cherokee Village Water Works to the City of Cherokee Village as a franchise fee, under the authority of Ark. Code Ann. §14-200-101 et seq. beginning with the first billing made after July 31, 2011. Said amount may be collected from each customer pursuant to state law.

Section 3: Franchise fees shall be remitted to the City on a monthly basis. Cherokee Village Water Works shall have thirty (30) days from the end of each month to compute and make payments provided for herein. The City reserves the right to request a review of Cherokee Village Water Works computations and payments made to the City of Cherokee Village to determine if appropriate amounts are being paid in franchise fees.

Section 4: The franchise granted by this ordinance is unlimited as to time and shall only terminate in accordance with state law.

Section 5: Monthly payments herein required shall be in lieu of all other charges, licenses, fees, or imposition other than the usual general or special ad valorem taxes which may be imposed by the City of Cherokee Village under authority conferred by state law,

Section 6: Nothing herein contained shall be construed as giving to Cherokee Village Water Works any exclusive privileges, nor shall it affect any prior or existing rights of Cherokee Village Water Works to maintain a water system within the City of Cherokee Village.

Section 7: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
CHEROKEE VILLAGE, ARKANSAS

DATED: 4-21-2011

APPROVED: Lloyd W. Hefley  
Lloyd W. Hefley, Mayor

ATTEST: Lana S. Hamilton  
Lana S. Hamilton, Clerk/Treasurer