

CW91-1544 (Published in The Daily Reporter, October 25, 1991)

ORDINANCE NO. 138

A CHARTER ORDINANCE OF THE CITY OF WICHITA, KANSAS, EXEMPTING THE CITY OF WICHITA, KANSAS FROM THE PROVISIONS OF KANSAS STATUTES ANNOTATED CHAPTER 12, ARTICLE 22 "PARKING STATIONS" AND FROM CHAPTER 13, ARTICLE 13C "MUNICIPAL PARKING AUTHORITY"; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS RELATING TO THE ESTABLISHMENT OF PARKING DISTRICTS WITHIN THE CITY OF WICHITA, KANSAS; PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SPECIAL ASSESSMENT BONDS TO FINANCE THE CONSTRUCTION OF PARKING FACILITIES TO BE LOCATED WITHIN PARKING DISTRICTS; THE AUTHORITY TO PURCHASE OR ACQUIRE BY EMINENT DOMAIN PARKING FACILITIES TO BE LOCATED WITHIN PARKING DISTRICTS; THE AUTHORITY TO OPERATE AND MAINTAIN PARKING FACILITIES WITHIN PARKING DISTRICTS; AND THE AUTHORITY TO LEASE PARKING FACILITIES TO BUSINESSES LOCATED WITHIN A PARKING DISTRICT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

SECTION 1. Exemption from Kansas Statute Annotated. The City of Wichita, Kansas, a Council-Manager City of the first class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from, and makes inapplicable to it the provisions of Kansas Statutes Annotated Chapter 12, Article 22 "Parking Stations" and Chapter 13, Article 13C "Municipal Parking Authority" and amendments thereto, and provides substitute and additional provisions as hereinafter set forth in this charter ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this city, but are not applicable uniformly to all cities.

SECTION 2. Title of Charter Ordinance. This Charter Ordinance may be referred to as the City of Wichita, Kansas Parking District Ordinance.

SECTION 3. Definitions. As used in this Charter Ordinance.

(a) "Parking District" means a parking district that may be established by the City Council within the boundaries of an overlay district and in accordance with this charter ordinance.

(b) "City" means the City of Wichita, Kansas.

(c) "City Council" means the Governing body of the City of Wichita, Kansas.

(d) "Parking Facilities" means place or facility located within a Parking District that is acquired, constructed, improved, operated and maintained in accordance with this Charter Ordinance and which is used for the parking and storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, sidewalks, and pedestrian access ways, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are usable in connection with such parking or storing of vehicles.

(e) "Overlay District" means in area designated as a overlay district by City zoning ordinance for the purpose of recognizing the special location and character of such areas by incorporating into the overlay district ordinance appropriate exceptions to the underlying district.

(f) "Parking Station" means individual parking spaces that accommodates one vehicle.

(g) "Costs" means costs incurred for preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants and interest accrued on borrowed money during the period of construction together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any improvement and may include a charge of not to exceed five percent (5%) of the total cost of an improvement or the cost of work done by the city for the services rendered by the city in the administration and supervision of such improvement by its general officers and where property and/or improvements already owned by the city and previously financed by the issuance of other city bonds is to become part of a parking facility the costs may include not to exceed the principal amount of such outstanding bonds plus interest or if such property was not financed by issuance of bonds, the cost the acquisition cost expended by the City in acquiring the property.

(h) "Consultant" means engineers, architects, planners, attorneys, and other persons deemed competent to advise and assist the City Council in the planning and the making of improvements.

SECTION 4. Purpose of the Charter Ordinance. It is declared to be the purpose of the act to promote and stimulate the development and re-development of buildings and property located within overlay districts by providing parking to serve the needs of retail, residential and commercial uses that are located within such districts and that may be stimulated to locate in such areas based on the availability of parking.

SECTION 5. Establishment of a Parking District.

(a) The City Council may on its motion, initiate council proceedings to establish a parking district by resolution. Such resolution shall contain the following:

(1) A description of the boundaries of the proposed parking district. (2) A finding that the proposed parking district is located within an area that has been designated by zoning ordinance to be a overlay zoning district. (3) A general description of where such parking facilities are to be located within the parking district and an estimate of the number of parking stations to be located in each parking facility. The location of parking facilities and the number of parking stations may after the district is established, without further hearing, be from time to time be amended to meet the parking needs of the district as they arise. (4) The time and place of a public hearing to be held by the City Council to consider establishment of the district.

(b) A copy of the resolution shall be mailed by certified mail to each owner of land within the proposed parking district not less than 10 days before the date set for hearing on the establishment of a parking district.

(c) The City Council may after the public hearing establish a parking district by ordinance.

SECTION 6. Acquisition of Property. The City for purposes of establishing parking facilities within parking districts shall have the authority to acquire fee title to real property by gift, purchase, exchange or eminent domain as provided by K.S.A. 26-501 to 26-516 inclusive and amendments thereto.

SECTION 7. Initiation of Improvements: Notice and Hearing: Adoption of Resolution. After a parking district has been estab-

lished, construction of parking facilities therein may be initiated for a period of up to 10 years. This initial period of time may be extended by the City Council. Parking facilities may be initiated by resolution of the governing body or by petition.

(a) Resolution projects shall be initiated by resolution of the City Council that (1) sets a time and place for a hearing; (2) provides an estimate of the probable cost; (3) identifies the location of the proposed parking facility; (4) provides an estimate of parking stations that will be constructed; and (5) set forth the proposed area that is to be benefited and assessed.

(b) Notice of hearing for resolution initiated projects shall be given by not less than two publications in the official city newspaper. The two publications shall be a week apart and at least three (3) days shall elapse between the last publication and the hearing.

(c) Petitions for parking facilities shall (1) Provide an estimate of the probable cost; (2) provide an estimate of parking stations that will be constructed; (3) identify the location of the proposed parking facility; and (4) set forth the area that is to be benefited and assessed.

(d) Names may not be withdrawn from a petition by the signers thereof after the City Council commences consideration of the petition or later than seven (7) days after such filing, whichever comes first. The petition shall contain a notice that the names of signers may not be withdrawn after such period of time.

(e) Petitions may be found to be sufficient if signed by either (i) majority of resident owners of record of property liable for the assessment under the proposal, or (ii) the owners of record of more than one-half of the area liable to be assessed under the proposal.

(f) The City Council may upon the filing of a valid petition proceed without notice to hold a hearing on the advisability of constructing the parking facility.

(g) Landowners may submit petitions that are not sufficient under subsection (e) above. If such a petition is submitted the City Council may proceed to initiate the petitioned parking facility as a resolution initiated project. A landowner submitting a petition that is insufficient under subsection (e) shall if the project is initiated by the City Council be bound to proceed with the project and to accept any special assessment made against property owned by the petitioner as if the petitioner had submitted a sufficient petition and the project had been initiated pursuant to a sufficient petition.

SECTION 8. Adoption of Resolution Authorizing Commencement of Construction of a Parking Facility and Commencement of Construction. The City Council may by a majority vote of the members-elect thereof, at any time within six (6) months after the final adjournment of the hearing on the advisability of acquiring and constructing a parking facility within a parking district, adopt a resolution authorizing the construction of the parking facility in accordance with the finding of the City Council upon the advisability of constructing the parking facility in question. After adoption of a authorizing resolution construction of the parking facility may proceed.

SECTION 9. Establishment of a Benefit District. Apportionment of Costs. and Assessment of Costs.

(a) The benefit district for parking facilities initiated by petition or by resolution shall consist of property that upon adoption of the authorizing resolution will not be required in part or in whole to provide off street parking if the use of the property is changed to a use that would otherwise require additional off street parking.

(b) The costs of constructing a parking facility shall be spread to property in a benefit district on a prorata basis to each property in the benefit district, in accordance with the number of off street parking spaces that otherwise would be required, that will be waived due to the existence of the parking facility.

(c) The benefit district for a parking facility shall be established based upon the City Council making a determination as to which property within a parking district will be eligible to obtain a waiver of off street parking requirements once a resolution authorizing construction of a parking facility is adopted.

(d) The costs of constructing a parking facility shall be assessed one hundred percent (100%) to the benefit district, provided, however, at the option of the City Council, a portion of the cost, to be determined by the City Council, may be paid or financed under authority of and in accordance with requirements set forth at K.S.A. 1990 Supp. 12-1770 et seq. "Redevelopment of Central Business District Areas Act" (Tax Increment Finance Act) or K.S.A. 1990 Supp. 12-1795 et seq. "Self-Supported Municipal Improvement District" and/or amendments thereto.

SECTION 10. Assessment: Notice and Hearing: Levy of Assessment. As soon as the total cost of constructing a parking facility is determined, notice of time, place, and date that the governing body will meet to consider proposed assessments shall be published in the official City newspaper. Thereafter not less than ten (10) days after such publication of the notice the City Council shall hold a hearing on the proposed assessment. Thereafter, at such meeting or any adjournment thereof, the City Council shall pass upon all objections and may amend any assessment upon a finding that the assessment as proposed is improper in some manner. Thereafter, the assessment with accrued interest may be levied as a special tax, and shall be payable in not more than fifteen (15) equal annual installments, as set by the City Council. All assessments shall bear interest at such rate as the governing body determines, not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto. The owner of any property so assessed may at any time prior to a date which shall be fixed by the governing body pay the whole of the assessment against any lot or parcel with interest accrued to the date of payment to the city finance director.

SECTION 11. Supplemental Assessments: Reassessments and New Assessments. When.

(a) Upon notice and hearing as provided for in the original assessment, the City Council may make supplemental assessments to correct omissions, errors or mistakes in the assessment relations to the total cost of the improvement.

(b) When an assessment is, for any reason whatsoever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in event the City Council finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing, that it is or may be invalid for any reason, the City Council may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such parcel or parcels.

SECTION 12. Authority to Issue General Obligation Bonds.

(a) Costs payable by special assessment which have been paid in full prior to the date set by the City Council as provided in Section 10 shall be paid from assessments so collected.

(b) The remaining costs payable by special assessment, to be paid by installments shall be paid by the issuance and sale of general obligation special assessment bonds as provided by law.

(c) During the progress of construction of any parking facilities the City Council may issue temporary notes of the City as provided by law to pay cost of construction, and upon completion of the work, bonds of the City shall be issued and sold as provided heretofore.

SECTION 13. Leasing. The City may lease parking facilities located within parking districts to property owners therein for a term of not more than fifteen (15) years. In addition to such other terms as may be negotiated and agreed to:

(a) The lease shall provide that the lessee will offer the parking facilities for the use of to the public. Provided, however, parking stations leased for residential uses may be excluded from the open to public requirement.

(b) The rent for such parking shall be an amount that at a minimum equals the expense the City incurs in connection with the operation and maintaining of the parking facility.

SECTION 14. Publication. This Charter Resolution shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION 15. Effective day of Ordinance. This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication, unless a sufficient petition for a referendum is filed requiring a referendum to be held on the ordinance as provided in Article 12, section 5, subsection (c)(3) of the Constitution of the State of Kansas in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof, 22nd day of October, 1991.

Bob Knight, Mayor

ATTEST: (SEAL)

Pat Burnett, Deputy City Clerk

(O 25, N 1)

CW91-1545 (Published in The Daily Reporter, October 25, 1991)

CHARTER ORDINANCE NO. 139

A CHARTER ORDINANCE OF THE CITY OF WICHITA, KANSAS, EXEMPTING THE CITY OF WICHITA, KANSAS, FROM THE PROVISIONS OF KANSAS STATUTES ANNOTATED 13-10,136 AS AMENDED AT CHAPTER 64, 1991 SESSION LAWS OF THE STATE OF KANSAS, 13-10,137, 13-10,138 AS AMENDED AT CHAPTER 64, 1991 SESSION LAWS OF THE STATE OF KANSAS, AND 13-10,139; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS RELATING TO DELAYING OR ABATING PAYMENT OF SPECIAL ASSESSMENT FOR PUBLIC IMPROVEMENTS SUBJECT TO THE CONDITIONS AND IN THE MANNER PROVIDED FOR HEREIN.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

SECTION 1. EXEMPTION FROM KANSAS STATUTES ANNOTATED. The City of Wichita, Kansas, a council-manager city of the first class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from, and make inapplicable to it the provisions of Kansas Statutes Annotated 13-10,136 as amended at Chapter 64, 1991 Session Laws of the State of Kansas, 13-10,137, 13-10,138 as amended at Chapter 64, 1991 Session Laws of the State of Kansas, and 13-10,139, and amendments thereto, and provides substitute and additional provisions as hereinafter set forth in this Charter Ordinance. Such reference provisions are either enactments or a part thereof which are applicable to the City, but are not applicable uniformly to all cities.

SECTION 2. DELAY OF SPECIAL ASSESSMENTS. The City Council may authorize and provide for a delay in or an abatement of the payment of special assessments for the cost of constructing public improvements subject to the conditions and in the manner provided for herein.

(a) The City Council may authorize and provide for a delay in the payment of a part or all of an assessment for the costs of constructing a parking facility located within a parking district that is being financed under authorization of Charter Ordinance 138 if the property the delay is being sought for, at the time bonds are issued, provides off-street parking on the property that meets off-street parking requirements for the use the property is subject to at that time. Delayed assessments shall be due and payable at the time the use of such property changes to a use that requires more off-street parking spaces than are being provided for on the property. The delay of the payment of assessments may, at the discretion of the City Council, be continued on a partial basis on the portion of the assessment that exceeds the cost of the parking spaces that are needed to meet off-street parking requirements. E.g., if the property was originally assessed for 20 spaces and only 12 spaces are needed, then the delay for payment of assessment can be continued on the portion of the assessment that equals the 8 spaces that will not be used.

(b) The City Council may authorize and provide for a delay in the payment of special assessments for the cost of constructing public improvements in unplatted and undeveloped areas of the City. The City Council may provide for a delay in the commencement of payment of some or all special assessments upon such property for a designated period of not to exceed fifteen years or until such property is platted or developed if the same occurs prior to the conclusion of the period designated. In the event such property has not developed 50% of its area at the conclusion of the period designated, an additional extension of ten years before commencement of payments may be granted to such property. All assessments shall be due and payable at the time such property, or any portion thereof, is platted or developed, or at the expiration of the designated period or any extension of such period. The payments for such property, or any portion thereof, shall be spread against such property, or any portion thereof as if the time for payment of the special assessments had not been delayed. When payments become due on a portion of the property, the payments against such property shall be spread in a pro rata manner based on the ratio the area of such property bears to the area of the entire property originally delayed. For the purpose of this act, undeveloped areas shall mean those areas which:

- (1) are in excess of 2 1/2 acres;
- (2) have not been platted;
- (3) are primarily used for agricultural purposes;
- (4) have a population density of less than one family per acre; and
- (5) are not served by such public improvement.

(c) The City Council may authorize and provide for a delay in or abatement of the payment of all or any portion of special assessments for the construction of public improvements levied against residential property when, in the opinion of the City Council such payment would work a hardship on the owner(s) of such property. The City Council may provide conditions and requirements for qualification for any such delay or abatement, either by way of ordinance adopted by the City Council or by way of regulations and policies promulgated

by the city pursuant to City Council direction.

SECTION 3. CITY CLERK SHALL NOT CERTIFY DELAYED SPECIAL ASSESSMENTS; FILING OF NOTICE WITH REGISTER OF DEEDS; CERTIFICATION WHEN PAYMENTS BECOME DUE. Special assessments for which payment is delayed under Section 2 hereof shall not be certified to the county clerk by the city clerk at the time the ordinance levying such special assessments is adopted by the City Council. Instead, the city clerk shall, for property which is granted a delay in payment of special assessments under Section 2 hereof, file with the Register of Deeds of Sedgwick County, Kansas, a notice stating that special assessments have been delayed and identifying the property and the general nature of the improvement(s) for which the special assessments were levied. At such time as payment of all or any portion of such special assessments have been spread against such property, or any portion thereof, the city clerk shall certify such assessments to the county clerk to be collected in the same manner as other taxes.

SECTION 4. PRINCIPAL AND INTEREST PAYMENTS DURING DELAYED PERIOD; REVENUES FROM PUBLIC IMPROVEMENT CHARGES; ASSESSMENTS OF COSTS INCURRED BY THE CITY. Whenever the City Council grants a delay in or an abatement of the payment of assessments under the provisions of this ordinance, it shall provide for the payment of the principal and interest of bonds issued for the payment of the costs of such improvement during the period for which such delay has been granted by the levy of a tax upon all the taxable property of the City in the manner provided for the payment of bonds payable by the city at large. The portion of the bonds issued for the payment of the cost of constructing public improvements which are payable by the city at large during the period granted as a delay in the payment of assessments shall be considered bonds payable by the city at large and not bonds the cost of which are repayable from special assessments. Revenues derived from any service charges derived from such improvements may be used to pay the principal and interest thereon. All costs incurred by the city at large by reason of and during the time of the delay in the payment of assessments shall be paid by special assessments against the property against which such costs were originally assessed and the proceeds thereof paid into the general bond and interest fund of the city. In no event shall said amount exceed the original assessment plus prorated interest which would have been charges initially for the installment payment schedule for the special assessment for which the delay was granted.

SECTION 5. PUBLICATION. This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION 6. EFFECTIVE DATE. This is a charter ordinance and shall take effect sixty-one (61) days after final publication, unless a sufficient petition for a referendum is filed requiring a referendum to be held on the ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of electors voting thereon.

PASSED BY THE GOVERNING BODY, not less and 2/3 of the members elect voting in favor thereof, the 22nd day of October, 1991.

City of Wichita, Kansas

Bob Knight, Mayor

ATTEST: (SEAL)

Pat Burnett, Deputy City Clerk

(O 25, N 1)