

LAW OFFICES

DAVIS, BEALL, MCGUIRE & THOMPSON

CHARTERED

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LEAVENWORTH, KANSAS 66048

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March 7, 1989

HOMER DAVIS, RETIRED

OF COUNSEL
TERENCE A. LOBER

Ms. Mary Ann Mogel
City Clerk
Basehor City Hall
2620 North 155th Street
P. O. Box 406
Basehor, KS 66007

Dear Mary Ann:

I am enclosing herewith three (3) ordinances which need to be published concerning the re-zoning matters we have discussed over the telephone.

Please have the Mayor where indicated and proceed with publishing the same in the Basehor Sentinel.

If you have any questions, please don't hesitate to contact me.

Very truly yours,

DAVIS, BEALL, MCGUIRE & THOMPSON,
CHARTERED


John F. Thompson

JFT/mo'n

Enclosures: as indicated

(b) A statement setting forth the plans of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city at the time of annexation, setting forth the method by which the city plans to finance the extension of such services to such area.

The date fixed for such public hearing shall be not less than sixty (60) nor more than seventy (70) days following the date of the presentation of the petition requesting such hearing. Notice of the time and place of said hearing, together with a legal description of the land sought to be annexed and the names of the owners thereof, shall be published in some newspaper of general circulation in the city not less than one week and not more than two weeks preceding the date fixed for such hearing.

A copy of the notice providing for the public hearing shall be mailed by certified mail to each owner of land proposed to be annexed not more than ten (10) days following the date of the presentation of the petition requesting such hearing.

A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with such notice and a copy thereof mailed to the owner of the property with such notice.

The board may for good cause shown continue said hearing beyond the time specified in the notice without further publication.

On the day set for hearing, the board of county commissioners shall hear testimony as to the advisability of such annexation, and a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed.

If said board shall be satisfied that such annexation or the annexation of a lesser amount of such land will cause no manifest injury to such owners, they shall so find and grant the annexation by order; and thereupon the city may annex the land by ordinance. All orders of the board of county commissioners granting or denying petitions for annexation shall be spread at length upon the journal of proceedings of said board. The failure of such board to spread an order granting annexation upon the journal shall not invalidate such order.

Any owner or the city aggrieved by the decision of the board of county commissioners may appeal from the decision of such board to the district court of the same county in the manner and method set forth in K.S.A. 19-223. Any city so appealing shall not be required to execute the bond prescribed therein.

History: L. 1967, ch. 98, § 3; L. 1974, ch. 56, § 6; March 28.

CASE ANNOTATIONS

1. Act not constitutionally impermissible; severance of 12-525. State, *ex rel.*, v. City of Overland Park, 215 K. 700, 707, 527 P.2d 1340.

2. Board of county commissioners held to be proper party to appeal taken from its order denying petition filed hereunder. Board of Johnson County Commissioners v. City of Lenexa, 230 K. 632, 633, 634, 638, 639, 640, 641, 640 P.2d 1212 (1982).

12-522. Filing of annexation ordinance. Upon the passage and publication of any annexation ordinance authorized under this act, the city clerk shall file a certified copy of such ordinance with the county clerk, the register of deeds, and the county election commissioner, if any, of the county or counties in which such city is located. No fee shall be charged for such filings, and the register of deeds shall file, but not record, the certified copies of such ordinances filed with him or her.

History: L. 1967, ch. 98, § 4; July 1.

12-523. Effective dates of annexation; exceptions. Annexation ordinances of cities shall take effect on publication as provided by law, except that any annexation ordinance published within thirty (30) days before any election specified in this section shall become effective on the day following such election, unless such day is also within thirty (30) days before any election specified in this section in which case such ordinance shall become effective on the day following the last such election. Elections to which this section shall apply are: (1) Primary and general election of state, county and national officers, and (2) primary and general city elections, and (3) primary and general school elections. The provisions of this section shall not apply to any special election.

History: L. 1967, ch. 98, § 5; July 1.

CASE ANNOTATIONS

1. Cited; ordinance to finalize annexation. Grandon v. City of Hutchinson, 6 K.A.2d 896, 899, 636 P.2d 205 (1981).

12-524. Annexation of city or part of

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Basehor, Kansas

State of Kansas)
)
Leavenworth County)

I, Mary A. Mogle, City Clerk of the City of Basehor, Leavenworth, County, Kansas do hereby certify that said city is a city of the third class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 227 and in accordance therewith is entitled the "Code of the City of Basehor, Kansas, 1989," that said codification was adopted as the "Code of the City of Basehor, Kansas, 1989," by the governing body by Ordinance No. 230 passed on the 6th day of Nov., 1989, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 230 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 230 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 230 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12- 3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Basehor, Kansas, 1989," and the matter therein contained will take effect upon publication and be in force from and after Nov. 6, 1989.

Witness my hand and the seal of the City of Basehor, Kansas, at my office in Basehor, Kansas, this 6th day of Nov., 1989.


Mary A. Mogle, City Clerk
City of Basehor, Kansas

(S E A L)

ORDINANCE NO. 230

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF BASEHOR, KANSAS, AUTHORIZED BY ORDINANCE NO. 227 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Basehor, Kansas:

Section 1. The codification of ordinances of the City of Basehor, Kansas, authorized by Ordinance No. 227 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Basehor, Kansas, 1989," is hereby adopted and ordained as the "Code of the City of Basehor, Kansas, 1989," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to September 1, 1989, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Basehor, Kansas, 1989," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature:

- (a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (d) Ordinances naming or changing the names of streets, avenues and boulevards;
- (e) Ordinances authorizing or directing public improvements to be made;
- (f) Ordinances creating districts for public improvements of whatsoever kind or nature;
- (g) Ordinances levying general taxes;
- (h) Ordinances levying special assessments or taxes;
- (i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
- (k) Ordinances authorizing contracts;
- (l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (m) Ordinances relating to compensation of officials, officers and employees of the city;
- (n) Ordinances of a temporary nature;

Provided, That the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Basehor, Kansas, 1989," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Basehor, Kansas, 1989," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Basehor, Kansas, this 6th day of NOV, 1989.


Joseph Odle, Mayor

ATTEST: 
Mary A. Mogle, City Clerk

(SEAL)