

SCANNED

11-24-08  
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(First published in *Basehor Sentinel*, Nov. 20, 2008)

### ORDINANCE NO. 543

AN ORDINANCE, granting to the City of Tonganoxie, Kansas, its successors and assigns, a water line franchise, prescribing the terms thereof and relating thereto.

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

SECTION 1. Pursuant to K. S. A. 12-2001 et seq., there is hereby granted to the City of Tonganoxie, Kansas, said City operating a system for the transmission and distribution of water in the State of Kansas, the right, privilege, and authority from the effective date of this ordinance for a period of 20 years, to occupy and use the utility easements in the City of Basehor, located on the south side of U.S. Highway 24/40 in the platted easements of the subdivision Honeycreek Farms between 170<sup>th</sup> and 166<sup>th</sup> and in the platted easements of the subdivision Pinehurst North 158<sup>th</sup> Street and 153<sup>rd</sup> Street, for the placing and maintaining of equipment and property necessary to carry on the business of selling and distributing water, and to do all things necessary or proper to carry on said business.

SECTION 2. The use of Utility Easements under this franchise by the City of Tonganoxie shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City of Basehor in the reasonable exercise of its police power. In addition, the City of Tonganoxie shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City of Basehor relating to permits, sidewalk and pavement cuts, utility location, construction coordination, and other requirements on the use of the Utility Easement; provided however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the City of Tonganoxie to oppose, challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation or policy proposed, adopted, or promulgated by the City of Basehor and, further provided, that such rules, regulations or policies shall not require the payment of additional fees or additional costs for the use of the Right of Way.

SECTION 3. All water mains, services, and pipe which shall be laid or installed under this agreement shall be so located and laid as not to obstruct or interfere with any water pipes, drains, sewers, or other structures already installed. The City of Tonganoxie shall provide, prior to commencing work, information to the City of Basehor concerning work to be performed in the streets, avenues, bridges, parks, parking areas, and public places of the City of Basehor, and obtain a no-fee permit for such work in accordance with established procedure unless an emergency repair is required.

SECTION 4. The City of Tonganoxie shall, in doing the work in connection with its said water mains, pipes, and services, avoid, so far as may be practicable, interfering with the use of any street, alley, avenue, or other public thoroughfare. It shall, without expense to the City of Basehor, and in a manner satisfactory to the duly authorized representatives of the City of Basehor, replace such paving or surface in substantially as good condition as before said work was commenced.

SECTION 5. City of Tonganoxie, its successors and assigns, in the construction, maintenance, and operation of its waterline, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall hold and save harmless the City of Basehor from any and all damage, injury, and expense caused by the negligence of said City of Tonganoxie, its successors and assigns, or its or their agents or servants.

SECTION 6. After the approval of this Ordinance by the City of Basehor, City of Tonganoxie shall file with the City Clerk of the City of Basehor its written acceptance of this Ordinance. Said Ordinance shall become effective and be in force for a period of 20 years and shall be and become a binding contract between the parties hereto, their successors and assigns, after its passage and approval by the City of Basehor, acceptance by the City of Tonganoxie, and publication in the official City newspaper.

SECTION 7. This Ordinance, when accepted as above provided, shall constitute the entire agreement between the City of Basehor and the City of Tonganoxie relating to this franchise and the same shall supercede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written, shall be binding upon the parties, including their successors and assigns, and shall not be amended or further obligations imposed without mutual consent of the parties hereto.

SECTION 8. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed.

PASSED AND APPROVED this 17<sup>th</sup> day of November, 2008.



Chris Garcia, Mayor, City of Basehor

ATTEST:



Mary A. Mogle, City Clerk, City of Basehor