

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE EXEMPTING THE CITY OF BASEHOR, KANSAS FROM THE PROVISIONS OF K.S.A. 12-194; RELATING TO THE PROHIBITION OF CERTAIN EXCISE TAXES; AND PROVIDING A SUBSTITUTE AND ADDITIONAL PROVISION AUTHORIZING THE CITY OF BASEHOR, KANSAS TO LEVY AN EXCISE TAX ON THE ACT OF PLATTING REAL PROPERTY OR PREVIOUS CONSTRUCTION FOR CERTAIN TRANSPORTATION IMPROVEMENTS, TO GRANT EXEMPTIONS, AND TO PLEDGE THE REVENUES THEREFROM FOR TRANSPORTATION IMPROVEMENTS TO THE CITY.

SECTION ONE: The City of Basehor, Kansas 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 K.S.A. 12-194, which provisions read as follows:

No City or County shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailer's sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege, or franchise to such utility; (b) imposing an occupational tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act. No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with the subject to a charge, described in subsection (a) of this section, by such city.

Such referenced provisions are either enactments or a part thereof which are applicable to this city but are not uniformly applicable to all cities.

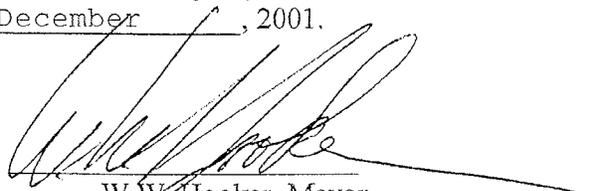
SECTION TWO: The City of Basehor, Kansas by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions from which it is exempted pursuant to Section One above.

The City of Basehor, Kansas, shall not levy or impose an excise tax or a tax in the nature of an excise, other than a retailer's sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting the city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege, or franchise to such utility; (b) imposing an occupational tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this Ordinance; or (d) levying an excise tax on the act of platting real property in the City, granting credits against excise taxes paid on the act of platting real property in the City for contributions previously made for transportation improvements, granting exemptions, and pledging revenues therefrom for transportation improvements in the City.

SECTION THREE: That this Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless within sixty (60) days of its final publication a protest petition signed by a number of electors of the City of Basehor equal to not less than ten percent (10%) of the number of electors who voted at the last proceeding regular City election shall be filed in the office of the City Clerk of Basehor demanding an election on the Charter Ordinance, in which case the Charter Ordinance shall become effective only if and when approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, by not less than two-thirds majority of the members elect voting in favor thereof, this 3rd day of December, 2001.



W.W. Hooker, Mayor

ATTEST:



Mary Mogle, City Clerk

Reviewed and approved by the City Attorney this ____ day of _____, 2001

John Thompson, City Attorney

AN ORDINANCE ESTABLISHING THE AMOUNT OF EXCISE TAX TO BE ASSESSED, THE TIME IN WHICH IT IS LEVIED, ESTABLISHING THE EFFECTIVE DATE, PLEDGING THE REVENUES, ALLOWING FOR CREDITS AND EXEMPTIONS FOR THE EXCISE TAX AND PROVIDING PROVISIONS FOR APPEAL.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS.

Section 1. Excise Tax on Platting and Building

- (a) **Purpose and Authority.** The excise tax levied by this article on the act of platting real property or building in the city has for its purpose the raising of general revenues to be used for transportation improvements in the city. The City's authority to levy this excise tax is derived from Charter Ordinance No.10, Article 12, Section 5 (b) of the Kansas Constitution, and K.S.A. 12-137 and 12-138. (K.S.A. 12-194)
- (b) **Levy and Payment of Tax.**
- (1) A tax is hereby levied on the act of platting real property and building in the city by any person, firm, partnership, joint venture, corporation, school district, water district, or other governmental entity, unless otherwise exempt by law. The tax rate shall be \$0.09 per square foot of land that is subject of the plat or building permit.
 - (2) Every applicant platting property shall pay to the city, after governing body approval, but prior to execution by the mayor and prior to recording of an approved plat with the Register of Deeds, a tax equal to the area of the real property (square footage) included in the plat multiplied by the current tax rate, less any applicable credits.
 - (3) Every applicant for a building permit shall pay to the city, after city staff approval, but before receiving a building permit, a tax equal to the area of the real property (square footage) which is subject of the building permit multiplied by the current tax rate, less any applicable credits. City staff shall finally determine the area of real property. If multiple plats shall be filed in phases, the fee shall be due prior to each individual plat being recorded. No building permit shall be issued until the excise tax has been paid to the city for the lot in question. In the case of single-family residential plats, the excise tax shall be paid at the time each lot is sold by the developer. Regardless of the multiplied tax total, no single-family residential building permit that is not part of a subdivision plat shall be obligated for more than \$2,600.00.

- (4) No approved plat subject to this tax shall be recorded until the applicant has paid the tax in full except for those single-family lots subject to the provisions of subsection (3) above.
 - (5) No building permit subject to this tax shall be issued until the applicant has paid the tax in full.
 - (6) The City Clerk shall deposit all taxes collected in the City's general fund in an account designated for Transportation Excise Tax.
- (c) **Pledge of Revenues** All revenues received from the tax are hereby pledged to transportation improvements of the City.
- (d) **Credits/ Exemptions** The excise tax paid on a final plat or building permit pursuant to this article shall be credited in full for:
- (1) Land within any final plat approved prior to the effective date of this ordinance if any of the following has occurred:
 - (a) A development agreement regarding the land within such approved final plat or the subject of a single family residential building permit has been executed by the owner and accepted by the city providing for contribution by the owner of monies for street improvements or actual street improvements; and
 - (b) Any final contribution or construction required by such agreement or previous city code has been paid or provided to the city.
 - (2) Payments previously made pursuant to this article for the same land as part of a final plat.
 - (3) Any replat of platted land, which does not increase the gross area of the property platted provided the original platting of the property was recorded prior to the effective date of this ordinance. In the case of non-platted land or lot splits, that portion of land split from the original homestead tract shall be charged at the rate of the square footage times the current tax rate.
 - (4) Land permanently dedicated on a final plat to the city or other public governmental body, or acts of platting or building by the City of Basehor, Kansas.
 - (5) Developer construction of all or a portion of collector or arterial roads if approved by the Governing Body and reflected in the City's Comprehensive Plan, to the extent that such construction shall reduce the City's future costs to construct collector or arterial roads.
 - (6) Land dedicated for public right-of-way for arterial and collector roads.
 - (7) No excise tax shall be required for a building permit for remodeling or expansion of an existing single-family structure.
 - (8) The rebuilding of single-family and commercial structures damaged or destroyed by fire or an Act of God.

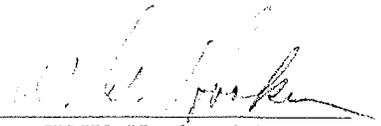
Adjustment of Tax Rate The Governing Body shall periodically review the tax rate at such time as it deems necessary or appropriate; provided, however, that a formal review shall take place not less frequently than in January of each year.

- (e) **Appeals** Any person aggrieved by any decision of the city officer administering the provisions of this code, may appeal such decision to the Governing Body. The appeal must be filed in writing with the City Clerk within fourteen (14) days of the final decision by city staff as to the applicability or amount of the excise tax to be applied. The Governing Body shall have the power to hear and decide appeals where it is alleged that there is an error in the interpretation, application, and calculation by the city officer enforcing the provisions of this excise code.
- (f) **Interpretation** This article shall be construed as follows:
- (1) **Liberal Construction:** The provisions of this Article shall be liberally construed to effectively carry out its purposes that are hereby found and declared to be in the furtherance of public health, safety, and welfare of the City and its citizens.
 - (2) **Conflict:** In the event of any conflict between other City ordinances and this Article, the provisions of this Article shall be deemed to be controlling, provided however, that unless expressly provided herein, this Article is not intended to amend or repeal any existing City ordinance or regulation which shall continue in full force and effect.
 - (3) **Invalidity:** If any section, subsection, sentence, clause, phrase, or portion of this Article is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or portion of this Article, shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of this Article nor impair or nullify the remainder of this Article which shall continue in full force and effect. If the application of any provision of this Article to any person, firm, partnership, joint venture, corporation, school district, water district, or other governmental entity, is declared to be invalid by a court of competent jurisdiction, the intent of the City is that such decision be limited to that particular circumstance immediately involved in the controversy, action, or proceeding in which such decision of invalidity was rendered. Such decisions shall not affect, impair, or nullify this Article as a whole or the application of any provision of this Article to any other person, firm, partnership, joint venture, corporation, school district, water district, or other governmental entity.

Section 2. Effective Date. This Ordinance shall become effective on June 15, 2002.

Section 3. Publication. This Ordinance shall be published once each week for two consecutive weeks in the Basehor Sentinel, the official City newspaper.

Passed and Approved by the Governing Body of the City of Basehor, Kansas on this 20 day of May, 2002.



W.W. Hooker, Mayor

ATTEST:



Mary Mogle, City Clerk

Reviewed and approved by the City Attorney on this ____ day of _____, 2002

John Thompson, City Attorney

LINDA A. SCHEER
Leavenworth County Clerk
300 Walnut, Leavenworth, KS 66048

PHONE: 913-684-0422
FAX: 913-684-0406
EMAIL: lscheer@lvcoks.com

April 5, 2002

Mary A. Mogle
Basehor City Clerk
P.O. Box 406
Basehor, KS 66007-0406

RE: Special Election

This is to certify the vote at the Special Election held on April 2, 2002 on the Transportation Excise Tax. This election was held as a result of the petition that was filed protesting Charter Ordinance No. 10.

The final results of the special election are as follows:

YES	204
NO	129

Witness my hand and seal this 5th day of April, 2002.

Linda A. Scheer

Linda A. Scheer
Leavenworth County Clerk
County Election Officer

1 20:29:34 04/02/02 Summary Report.

LEAVENWORTH COUNTY, KANSAS
SPECIAL ELECTION APRIL 2, 2002

Total Number Voting 335
Precincts Reporting 1 of 1 100.00%

BASEHOR CITY CHARTER ORDINANCE NO. 10

YES 204 60.89%
NO 129 38.50%

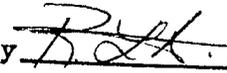
.....
Total Votes Cast 335
Number Under Votes 0 .00%
Number Over Votes 2 .59%

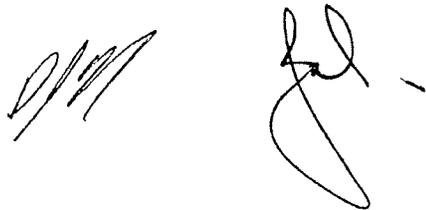
TOTAL BALLOTS CAST 335

TOTAL TYPE 1 BALLOTS 335

O.K.
FOR THE BOARD

APR 05 2002

By 



AFFIDAVIT OF PUBLICATION

First published in the Basehor Sentinel December 6, 2001

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STATE OF KANSAS, Leavenworth County, as **DAN SIMON** being first duly sworn, deposes and says: That he is Publisher or Assistant Publisher of The Basehor Sentinel weekly newspaper printed in the State of Kansas, and published in and of general circulation a weekly basis in Leavenworth County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published at least weekly 52 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than one year prior to the first publication of said notice; and has been admitted at the post office of Basehor in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive week(s) the first publication thereof being made as aforesaid on the 10 day of Dec, 2001 with subsequent publications being made on the following dates:

_____, 20____
 _____, 20____
 _____, 20____

Dan Simon

(Signature)

Subscribed and sworn to before me this 7 day of Dec, 2001

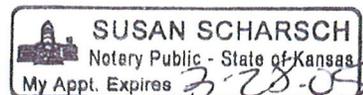
Susan B Scharsch

Notary Public

My commission expires: 3-28-05

Printers Fee \$ 980

Additional copies \$ _____



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 TRADE TIRE
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 and let
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31.95	W
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Trade designs may vary
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195/60R15	44.95
195/65R15	47.95
205/65R15	43.95
205/70R15	48.95
205/75R15	46.95
215/65R15	59.95
215/70R15	49.95
215/75R15	49.95
225/75R15	49.95
235/75R15	49.95
Price	49.95