(Published in The Western Butler County Times, November 20, 1975)

CITY OF ANDOVER

ORDINANCE NO. 248

AN ORDINANCE SETTING OUT ADMINISTRATIVE POLICIES AND PROCEDURES TO BE FOLLOWED IN THE EXTENSION OF THE WATER WORKS SYSTEM IN THE CITY OF ANDOVER, KANSAS AS OPERATED AND OWNED BY A JOINT VENTURE BETWEEN THE CITY OF ANDOVER, KANSAS AND THE CITY OF WICHITA, KANSAS PURSUANT TO CONTRACTUAL ARRANGEMENTS BETWEEN SAID CITIES AND ESTABLISHING THE PROCEDURE BY WHICH WATER SERVICE MAY BE EXTENDED TO RESIDENTS OF SAID CITY AND THE METHOD FOR APPLYING FOR SUCH EXTENSION AND THE MANNER OF FINANCING THE SAME AND PROVIDING CERTAIN CRITERIA TO BE OBSERVED BY THE GOVERNING BODY OF SAID CITY BEFORE THE EXTENSION OF WATER SERVICE TO CERTAIN PROPERTIES WHERE SUCH PROPERTIES SHARE OF THE COST OF EXTENSION WILL BE PAID FOR BY THE ISSUANCE OF BONDS AND THE LEVYING OF SPECIAL ASSESSMENTS TO RETIRE THE SAME AND MAKING AN EXCEPTION THERETO WHERE THE PUBLIC HEALTH IS AFFECTED AND PROVIDING PURSUANT TO K.S.A. 12-601 ET SEQ, AND AMENDMENTS, FOR THE INITIATION OF EXTENSION OR IMPROVEMENT BY THE GOVERNING BODY OF SAID CITY AND FOR WRITTEN PROTESTS THERETO AND PROVIDING FOR THE DEPOSIT OF COSTS BEFORE CERTAIN EXTENSIONS ARE MADE AND PROVIDING THAT ANNEXATION TO THE CORPORATE LIMITS OF THE CITY OF ANDOVER, KANSAS IS A CONDITION PRECEDENT TO THE EXTENSION OF WATER SERVICE TO ANY LAND DESIRING SUCH EXTENSION AND PROVIDING THAT THIS ORDINANCE IS NOT ONE OF LIMITATION AND PROVIDING FOR A SAVINGS CLAUSE AND PROVIDING BY REFERENCE OF AMENDMENT OR SUPPLEMENT TO CERTAIN STATUTORY OR CONSTITUTIONAL AUTHORIZATION AND PROVIDING A SAVINGS CLAUSE OF SAID ORDINANCE.

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

Section1. INTENT AND PURPOSE OF ORDINANCE. That this Ordinance is enacted pursuant to K.S.A. 12-6a01 et seq, and specifically under the authority of K.S.A. 12-6a02(e) for the purpose of setting out the policies and procedures relating to the extension or improvement of the water works system in the City of Andover, Kansas which water works system is owned and operated as a joint venture between the City of Andover, Kansas and the City of Wichita, Kansas pursuant to a certain contract entered into between said cities on the 11th day of March, 1975.

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

water improvement district. Nothing herein shall be construed as prohibiting or preventing the landowner or landowners in said proposed water system improvement benefit district from altering or changing said Petition or redrafting the same so long as the same complies with the provisions of K.S.A. 12-6a01 et seq, and the requirements of this Ordinance.

Section 4. FILING OF PETITION AND FINANCING STATEMENT. The landowners shall upon completion of the execution of said Petition file the same with the City Clerk of the City of Andover, Kansas and shall file therewith a statement indicating whether or not the Petitioners desire to pay cash for their respective costs of said water extension improvement or whether they desire the same to be spread upon the special assessment rolls of said City and temporary notes and/or special assessment bonds of said City be issued to pay the costs of said improvement or whether both of such methods shall be employed, that is, that the owners of part of the land in such proposed district propose to pay cash for such improvement and the remaining owners propose that their proportionate costs of said improvement be spread upon the special assessment rolls of said City.

Section 5. FEASIBILITY STUDIES AUTHORIZED. Said Governing Body of the City of Andover shall thereupon and pursuant to authority of K.S.A. 12-6a05 cause to be prepared any additional preliminary plans, reports, plats, or specifications, estimates and tentative bids and to compile any other information necessary for the Governing Body to determine the feasibility of such improvement, including the obtaining of the feasibility report to assist in the determination of whether such improvement should be made as proposed or otherwise or in combination with other improvements authorized by K.S.A. 12-6a01 et seq, and all acts amendatory and supplemental thereto and said Governing Body shall have the authority to do any and all acts as authorized by

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

Section 2. LANDOWNERS PRELIMINARY APPLICATION. That whenever any individual landowner or landowners desire to obtain water service by the improvement or extension of water works system of said City to land owned by such landowner or landowners, such landowner or landowners shall fiel with the Water Department of the City of Wichita a preliminary application in a form prescribed by said City and it is recommended by the Governing Body of the City of Andover, Kansas such form or an appendix thereto set out the legal descriptions of the land sought to be included in a benefit district for water service purposes and the names of all owners of land in such district whether or not such landowners are a signator of the said preliminary application.

That the said City of Wichita pursuant to the said Agreement entered into with the City of Andover, Kansas will thereupon proceed with the investigation and engineering of such water system improvement and prepare a report of the same directed to the Governing Body of the City of Andover, Kansas. Such report may or may not contain a recommendation from the City of Wichita to the City of Andover, Kansas as to (a) the method of assessment to the land benefited by the proposed water system improvement and/or the land to be benefited by such proposed water system improvement district and therefore to be assessed for the same but in all events said report shall contain an engineer's estimate of the maximum construction costs of same and all other incidental costs in connection with the same excepting, of course, accrued interest or other financing costs.

Section 3. REPORT AND PETITION. The Governing Body of the City of Andover, Kansas will consider said report and may cause to be prepared a Petition for execution by the landowner or landowners seeking such water system improvement and present the said Petition to the first signator on said preliminary application for circulation and execution by the landowners in said proposed

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

landowners within two hundred feet thereof. At such hearing all persons including persons residing outside said proposed benefit district and outside the area two hundred feet therefrom shall be heard and after such hearing or adjournment thereof the Governing Body in open session shall make a determination as to whether the public health of the inhabitants of such City would be endangered. Nothing herein shall be construed to prevent such public hearing provided for in this section from being held before, concurrent with, or after the hearing on advisability provided for by statute and by Section 6 of this Ordinance.

That in the event that the Petition filed by such landowners complies with K.S.A. 12-6a04(2) and specifically K.S.A. 1975 Supp. 12-6a04(2)(f) in that request is made in said Petition for such improvement to be made without notice and hearing as otherwise required under said K.S.A. 1975 Supp. 12-6a04(1) and Section 6 of this Ordinance such Petition may be found to be sufficient if signed by either (i) a majority of the resident owners of record of the property liable for assessment under the proposal, or (ii) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (iii) the owners of record (whether residents or not) of more than one-half of the area liable to be assessed under the proposal then, of course, the so-called "Advisibility Hearing", as required by statute and by Section 6 of this Ordinance shall be waived, provided that upon the filing of such Petition, the Petition shows on its face the following wordage: "Names on this Petition may not be withdrawn from the Petition by the signers thereof after the Governing Body commences consideration of the said Petition or

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

later than seven days after the filing, whichever occurs first, and a notice that the names of the signers may not be withdrawn after such period of time."

Section 9. EFFECTIVE DATE OF ADVISABILITY RESOLUTION, PROTESTS. In the event that the Governing Body determines by resolution under K.S.A. 1975 Supp. 12-6a04(2) that such proposed improvement is advisable, said Governing Body shall adopt a resolution authorizing the provision in accordance with the finding of the Governing Body of advisability in accordance with K.S.A. 1975 Supp. 12-6a04 which shall be effective upon publication once in the official city newspaper provided that the improvement shall not be commenced if within twenty days after the publication of such resolution ordering the improvement a written protest applicable or permitted by K.S.A. 12-6a06 signed by fifty-one percent or more of resident owners of record of property within the improvement district and owners of record of more than half the total area of such district is filed with the City Clerk. The Governing Body shall be judge of the sufficiency of any protest and its decisions shall be final and conclusive, provided: names may be withdrawn from any protest by the signers thereof at any time before the Governing Body shall convene its meeting to determine the sufficiency thereof.

Section 10. DEPOSIT OF COSTS AND SPECIAL ASSESSMENTS. That before the actual awarding of any contract for such improvement the Governing Body shall cause to be paid into the City Treasury all sums for each landowners' proportionate share of assessment where the landowner has indicated prior that he desires to pay the same in cash and in the event that said

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

landowners' ultimate cost of said project is less than the amount paid or so deposited with the City Treasury upon completion of said project and the rendition of final costs thereon the landowner or landowners as the case may be will be refunded the unused portion of the deposit. After the completion of work when a contract has been awarded for such extension improvement the Governing Body shall cause those portions of land subject to special assessment to have such land's proportionate assessment placed upon the assessment rolls of said County and notice of hearing given as to such proposed assessments all in accordance with K.S.A. 12-6a09 through K.S.A. 12-6a12 and acts amendatory and supplemental thereto including but not limited to K.S.A. 1975 Supp. 12-6a10.

Section 11. ANNEXATION A CONDITION PRECEDENT TO EXTENSION OF WATER SERVICE. It is hereby deemed and determined by the Governing Body that until the repeal of this section or the amendment of the same the Governing Body will not extend water improvement services to areas outside the corporate limits of said City until such areas are annexed voluntarily or involuntarily to the corporate limits of said City.

Section 12. ORDINANCE NOT ONE OF LIMITATION. Nothing herein shall be construed an attempt by said City of Andover, Kansas to limit the provisions of K.S.A. 12-6a01 et seq, or any other statute of the State of Kansas, relating to the extension of improvement of water systems or the financing of the same, nor is anything in this Ordinance intended to limit or diminish the power of the City of Andover, Kansas itself from initiating and completing water improvement projects as authorized and contemplated under K.S.A. 1975 Supp. 12-6a04(1)(a) through (f).

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263

Section 13. STATUTORY AMENDMENTS. That should any statutory or constitutional authority recited herein or by inference or implication made a part of this Ordinance be amended or supplemented either before or after the enactment of this Ordinance such change shall be deemed to be included in this Ordinance in its amended or supplemental form notwithstanding the failure of a recital of such amendment or supplement.

Section 14. SAVINGS CLAUSE. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal such decision shall not effect the validity of the remaining portions of this Ordinance.

PASSED and ADOPTED the 11th day of November, 1975.

GOLDIE M. BUCHANAN
Mayor

ATTEST:

Patricia M. Stuenkel
PATRICIA M. STUENKEL
City Clerk

(SEAL)

R. A. MUNROE
ATTORNEY AT LAW
112 EAST FIFTH
AUGUSTA, KS. 67010
(316) 775-2263