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THE CITY OF CHENEY, KANSAS

CHARTER ORDINANCE NO. 24

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHENEY, KANSAS FROM CERTAIN TERMS AND PROVISIONS OF THE WATER POLLUTION ACT, K.S.A. 12-3101 THROUGH K.S.A. 12-3107, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE ESTABLISHMENT, OPERATION AND MAINTENANCE OF SEWER AND STORMWATER MANAGEMENT SYSTEMS, ESTABLISHING CERTAIN FEES RELATED THERETO, AND PERMITTING THE ISSUANCE OF BONDS FOR THE PAYMENT OF NECESSARY PROPERTY AND IMPROVEMENTS FOR THE OPERATION OF SUCH SYSTEMS.

WHEREAS, the City of Cheney, Kansas is required to comply with the federal law commonly known as "The Clean Water Act", along with other Kansas statutes, and is empowered to regulate in support of the public health, safety, and welfare of the community; and

WHEREAS, the governing body of the City of Cheney, Kansas has determined that a number of drainage issues exist that may contribute to stormwater runoff issues throughout the City; and

WHEREAS, all developed properties within the City of Cheney, Kansas produce stormwater runoff; and

WHEREAS, the governing body of the City of Cheney, Kansas has determined that all developed properties should share equally in addressing the concerns associated with such runoff; and

WHEREAS, the governing body of the City of Cheney, Kansas has therefore deemed it advisable to exempt itself from certain provisions of the Water Pollution Act, K.S.A. 12-3101 through K.S.A. 12-3107, and to provide substitute and additional provisions relating to the establishment, operation and maintenance of sewer and stormwater management systems, establishing certain fees related thereto, and permitting the issuance of bonds for the payment of necessary property and improvements for the operation of such systems.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, KANSAS:

Section 1. Exemption

The City of Cheney, Kansas, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from certain provisions of the Water Pollution Act, K.S.A. 12-3101 through K.S.A. 12-3107.

In exempting itself, the City of Cheney, Kansas finds that such provisions are applicable to it but not uniformly applicable to all cities. Therefore, the City of Cheney, Kansas hereby adopts substitute and additional provisions on the same subject as hereinafter provided.

Section 2. Definitions

For the purpose of this Charter Ordinance, the words and phrases "Sewer," "Sewer System" or "Sewer Systems" shall mean sanitary and/or storm sewers that exist at the time this Charter Ordinance is adopted or that are hereafter established and all appurtenances necessary in the maintenance and operation of the same, including, but not limited to, pumping stations, sewage treatment plants, main sewers, intercepting sewers, out fall sewers, surface drains, channels, rivers, streams and other flood control facilities and works for the collection, transportation, pumping, treating, and disposing of water carried wastes or storm or surface waters.

Section 3. Sewer Systems; Powers of Municipality

The City of Cheney, Kansas, shall have all the powers necessary or convenient to plan, alter, enlarge, extend, improve, construct, reconstruct,

develop, redevelop, operate and maintain a Sewer System or Stormwater Management System, including such powers as the City may, from time to time, establish by way of ordinances adopted by the governing body of the City. Such powers include, but are not limited to, the following:

- (a) To impose service charges on property served by the City's Sewer System or Stormwater Management System. The method of calculating and fixing such service charge shall be as established by rules and regulations heretofore or hereafter adopted;
- (b) To require that when sewer service charges authorized in subparagraph (a) above become delinquent they are certified by the City Clerk to the Sedgwick County Clerk for placement on the relevant property tax roll for collection, in the same manner and subject to the same penalties as other property taxes. Such taxes shall constitute a lien upon the real estate and against which such charges were made;
- (c) To use the proceeds of the sewer service charges authorized in subparagraph (a) above to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System;
- (d) To issue general obligation bonds or revenue bonds, as authorized by law, and to use the proceeds of the same to plan, alter, enlarge, extend, improve, construct, develop and redevelop a Sewer System or Stormwater Management System;
- (e) To use the proceeds of the sewer service charges authorized in subparagraph (a) above to pay the principal and interest on bonds heretofore or hereafter issued for the planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining of a Sewer System or Stormwater Management System.
- (f) To contract with agencies of the federal government, public bodies of this state or other states, or with any private person or body for jointly planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining a Sewer System or Stormwater Management System;
- (g) To contract with agencies of the federal government, public bodies of this state or other states or with any private person or body for receiving and treating sewage or stormwater from outside of the City limits;
- (h) To plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System outside the city limits of the City and to have the right of eminent domain outside the city limits of the City in order to acquire land and right of way for a Sewer System or Stormwater

Management System;

- (i) To borrow money and to apply for and accept advances, loans, grants, contributions or any other form of financial assistance from the federal government, the state, county or any other public body for the purposes identified in this Charter Ordinance, and the City may, when contracting with the federal government for any such financial assistance, include in any such contract such conditions imposed pursuant to federal law as the City may deem reasonable and appropriate;
- (j) To, under authority granted herein, establish a sanitary Sewer System utility and a Stormwater System utility;
- (k) To combine the City's sanitary Sewer System utility, Stormwater System utility and Water utility into one or more utilities; and
- (l) To establish a unified and consolidated billing system for its sanitary Sewer System utility, its Stormwater System utility and its Water utility, whether or not the same are combined as provided for in subparagraph k above.

Section 4. Rules and Regulations Authorized; Billing and Collection of Sewer Service Charges; Discontinuance of Water Service, When

The City of Cheney, Kansas shall have the power by ordinance or resolution to adopt rules and regulations that shall include, but not be limited to, providing for the management and operation of its Sewer System or Stormwater Management System, prohibiting the discharge into such Sewer System or Stormwater Management System of matter deleterious to the proper operation of the Sewer System or Stormwater Management System and the general health, safety and welfare of the community, establishing the types and characteristics of sewage and stormwater that may be discharged into the Sewer System or Stormwater Management System, establishing the method for calculating and fixing the service charge for property served by the City's Sewer System and Stormwater Management System, requiring security for the payment thereof, and providing methods and rules of collection, and providing for the disposition of the revenue therefrom.

In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's Sewer System or Stormwater Management System shall neglect, fail or refuse to pay the service charges fixed by the governing body of the City, the City may, if a unified and consolidated billing system has been established and authorized by rules and regulations adopted under the authority of this section, refuse the delivery of water through the pipes

and mains of its publically owned waterworks until such time as such charges are fully paid.

Section 5. Issuance of Sewer System Revenue Bonds; Requirements

(a) The City of Cheney, Kansas, shall have the power to issue revenue bonds from time to time in its discretion to finance the planning, altering, enlarging, extending, improving, constructing, and reconstructing of a Sewer System or Stormwater Management System under this Charter Ordinance. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the City derived from or held in connection with its Sewer System or Stormwater Management System: Provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government.

(b) Bonds issued under this Charter Ordinance shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this Charter Ordinance are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this Charter Ordinance shall be authorized by ordinance or resolution of the governing body of the City and may be issued in one or more series. Such bonds shall bear such date or dates, be payable on demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution issued pursuant thereto.

Section 6. Supplemental and Additional Powers

The court costs, assessments and fees established by this Charter Ordinance shall be set by a resolution of the Governing Body of the City of Cheney, Kansas. Such costs, assessments and fees may be revised as necessary by adoption of a new resolution. Copies of the current resolution of court costs, assessments and fees shall be on file in the offices of the City Clerk and the Municipal Court Clerk.

Section 7. Assessment of Court Costs, Assessments and Fees

The powers herein granted to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System and to issue bonds shall be supplemental to and not amendatory of the provisions of all other laws and shall not be construed to limit the City's authority under the provisions of any other laws.

Section 8. Effective Date

This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper and shall take effect 61 days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on this Charter Ordinance as provided in Article 12, Section 5 Subsection (c) (3) of the Constitution of the State of Kansas. If a sufficient petition for a referendum is filed, this Charter Ordinance shall become effective upon approval by a majority of electors voting thereon.

Passed by the City Council by not less than two-thirds of the members-elect voting in favor thereof this 9th day of March, 2017.

Approved by the Mayor this 9th day of March, 2017.

SEAL

ATTEST




MAYOR, LINDA BALL


CITY CLERK, DANIELLE YOUNG