

(Published one time in *The Wathena Times* on December 18, 1997)

ORDINANCE NO. 503

A HOME RULE ORDINANCE OF THE CITY OF WATHENA, KANSAS, AMENDING AND SUPPLEMENTING HOME RULE ORDINANCE NO. 500 OF THE CITY, WHICH AUTHORIZES THE PURCHASE AND ACQUISITION OF REAL ESTATE AND THE GRANT THEREOF TO A CERTAIN COMPANY FOR ECONOMIC DEVELOPMENT PURPOSES AND AUTHORIZES THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY TO PROVIDE FUNDS FOR SUCH PURPOSES.

WHEREAS, the governing body of the City of Wathena, Kansas (the "City") has considered the needs of the City and its environs for the retention and expansion of existing businesses and industries and the securing and development of new businesses and industries, in order to enhance and provide for the general and economic welfare of the citizens of the City; and

WHEREAS, Article 12, § 5 of the Constitution of the State of Kansas (the "Home Rule Amendment") (1) empowers cities to determine their local affairs and government and (2) provides that such power and authority granted thereby to cities (a) shall be liberally construed for the purpose of giving to cities the largest measure of self-government and (b) shall be exercised by ordinance, subject only to (i) enactments of the Kansas legislature of statewide concern applicable uniformly to all cities, (ii) other enactments of the legislature applicable uniformly to all cities, (iii) enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other action and (iv) enactments of the legislature prescribing limits of indebtedness; and

WHEREAS, the Kansas Supreme Court has considered the Home Rule Amendment and determined that (a) home rule legislation should be permitted to stand unless an actual conflict exists between the home rule legislation and a state legislative enactment, or unless the legislature has clearly preempted the field so as to preclude municipal action, and (b) legislative intent to reserve to the state exclusive jurisdiction to regulate an area must be clearly manifested by statute before it can be held that the state has withdrawn from the cities the power to regulate in the field (*McCarthy v. City of Leawood*, 257 Kan. 566 (1995); *Junction City v. Lee*, 216 Kan. 495 (1975)); and

WHEREAS, the City is a city within the meaning of the Home Rule Amendment and, in the interest of the public health, safety and welfare, the City has previously enacted Home Rule Ordinance No. 500, authorizing the purchase and acquisition of real estate, the grant thereof to a certain private company for economic development purposes and the issuance of general obligation bonds of the City to provide funds for such purposes; and

WHEREAS, the governing body of the City now further finds and determines that (i) there are no enactments of the Kansas legislature of statewide concern applicable uniformly to all cities or applicable to the City relating to a city authorizing the purchase and acquisition of real estate, the granting thereof to a certain private company for economic development purposes and the issuance of general obligation bonds of a city to provide funds for such purposes, (ii) no conflict exists between the provisions of the City's Home Rule Ordinance No. 500, as amended and supplemented hereby, and a state legislative enactment, and (iii) the legislature has not clearly preempted, or clearly manifested its intent to preempt, the field of municipal economic development so as to preclude City Home Rule Ordinance No. 500, as amended and supplemented hereby; and

WHEREAS, it is necessary and advisable to amend and supplement City Home Rule Ordinance No. 500 to implement the findings set forth in this Home Rule Ordinance.

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

Section 1. Amendment and Supplement. The City's Home Rule Ordinance No. 500 is amended and supplemented by this Home Rule Ordinance and the findings set forth herein.

Section 2. Ratification and Construction. The City's Home Rule Ordinance No. 500, as amended and supplemented by this Home Rule Ordinance, is ratified and confirmed and shall be construed with this Home Rule Ordinance as an enactment of the governing body of the City. To the extent that any provision of this Home Rule Ordinance conflicts with Home Rule Ordinance No. 500, that provision of this Home Rule Ordinance shall supercede and apply.

Section 3. Effective Date. This Home Rule Ordinance shall be in full force and effect from and after its passage by a majority of the governing body of the City, its approval and execution by the Mayor, and its publication once in the official City newspaper as provided by law.

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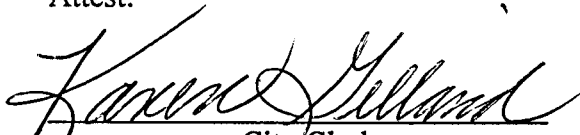
PASSED by a majority of the governing body of the City of Wathena, Kansas and
APPROVED by the Mayor this 16th day of December, 1997.

[SEAL]



Mayor

Attest:



City Clerk