

(PUBLISHED IN *THE HORTON HEADLIGHT* ON MARCH 18, 2010)

ORDINANCE NO. 1108

**A HOME RULE ORDINANCE OF THE CITY OF HORTON,
KANSAS AUTHORIZING THE ACQUISITION OF
EMERGENCY/STORM SIRENS TO SERVE THE CITY; AND
AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION
BONDS OF THE CITY TO FINANCE THE COSTS OF THE SAME.**

WHEREAS, the City of Horton, Kansas (the "City") has determined that it is necessary and advisable and in the interest of public safety to acquire emergency/storm sirens to serve the City and its environs (the "Sirens") and to issue general obligation bonds of the City to pay the costs of the same; 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jurisdiction to regulate an area must be clearly manifested by statute before it can be held that the state has withdrawn from the cities the power to regulate in the field (*McCarthy v. City of Leawood*, 257 Kan. 566 (1995); *Junction City v. Lee*, 216 Kan. 495 (1975)); and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 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 the issuance of general obligation bonds to pay the costs of acquiring emergency/storm sirens to serve the City and its environs, (ii) no conflict would exist between a City Ordinance authorizing the issuance of general obligation bonds to pay the costs of acquiring emergency/storm sirens to serve the City and its environs and any legislative enactment, and (iii) the legislature has not clearly preempted, or clearly manifested its intent to preempt, the field of municipal finance so as to preclude a City Ordinance authorizing the issuance of general obligation bonds to pay the costs of acquiring emergency/storm sirens to serve the City and its environs; and

WHEREAS, the City is a city within the meaning of the Home Rule Amendment; and

WHEREAS, it is necessary and advisable to issue general obligation bonds of the City under the Home Rule Amendment to pay the costs of acquiring emergency/storm sirens to serve the City and its environs; and

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

Section 1. Acquisition of Sirens. The acquisition of the Sirens, at an estimated cost of \$37,228, is hereby authorized.

Section 2. Authorization of Bonds. The costs of the Sirens are authorized to be paid from the proceeds of the sale of general obligation bonds of the City (the "Bonds"), which are authorized to be issued for such purposes pursuant to the authority of the Home Rule Amendment in an amount not to exceed \$37,228, and which may be issued in one or more series, in such principal amounts as are determined by subsequently enacted ordinances of the governing body of the City.

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

PASSED and APPROVED by a majority of the governing body of the City of Horton, Kansas and **SIGNED** by the Mayor this 15th day of March, 2010.

KANSAS **CITY OF HORTON,**
[SEAL]

Mayor

Attest:

City Clerk