

A Summary of this Ordinance was Published in *The Clarion* on June 5, 2025.

ORDINANCE NO. 1089

AN ORDINANCE OF THE CITY OF MAIZE, KANSAS AUTHORIZING THE IMPOSITION AND PROVIDING FOR THE APPLICATION OF BENEFIT FEES RECEIVED BY THE CITY FROM OWNERS OF PROPERTY BENEFITTING FROM CERTAIN PREVIOUSLY CONSTRUCTED RESIDENTIAL STREETS.

WHEREAS, the City of Maize, Kansas (the “City”) is a municipal corporation duly created, organized and existing under the laws of the State of Kansas (the “State”), and

WHEREAS, the City is authorized under the laws of the State, specifically K.S.A. 12-6a01 *et seq.*, (the “Act”) to construct, reconstruct, alter, repair, improve, extend or enlarge its public streets and to issue general obligation bonds or use other available funds in payment of the cost thereof;

WHEREAS, Article 12, §5 of the Constitution of the State of Kansas (the “Home Rule Amendment”): (a) empowers cities to determine their local affairs and government; and (b) provides that such power and authority granted thereby to cities: (1) shall be liberally construed for the purpose of giving to cities the largest measure of self-government and (2) 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jurisdiction to regulate an area must be clearly manifested by statute before it can be held that the state has withdrawn from the cities the power to regulate in the field (*McCarthy v. City of Leawood*, 257 Kan. 566 (1995); *Junction City v. Lee*, 216 Kan. 495 (1975)); and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 finds and determines that: (a) neither the Act or any other enactment of the Kansas legislature of statewide concern applicable uniformly to all cities or applicable to the City relate to the imposition of a benefit fee upon property located outside the City limits which benefit from the construction of a residential or arterial street, all or a portion of which was financed by general obligation bonds or other City funds under the Act, at such time as the benefitting property is annexed into the City limits; (b) no conflict would exist between the City ordinance authorizing imposition of such a benefit fee and any legislative enactment applicable to the City; and (c) 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 imposition of such a benefit fee; and

WHEREAS, the City, pursuant to the Act and the Home Rule Amendment, desires to make provision for the application of benefit fees when property owners benefiting from the construction of residential streets, all or a portion of which was financed by general obligation bonds or other City funds under the Act at such time the benefitting property is annexed into the City limits.

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

Section 1. When the City has constructed a residential street pursuant to the Act that was financed with general obligation bonds or by other City funds, the City may impose a benefit fee upon property located outside the City limits that benefits from the construction of such street at such time as the benefiting property is annexed into the City limits. Any such benefit fees imposed shall be applied: (1) To the remaining principal and outstanding interest on the bonds issued to finance the residential street, with a resulting pro-rata reduction of the assessments against property originally included in the improvement district for such improvement; or (2) the city general bond and interest fund if any of the cost of such street improvement was paid by the city at large. The City is further authorized to adopt such policies and administrative procedures as are necessary.

Section 2. The benefit fees provided for herein may be collected in a manner consistent with the Act and such policies as deemed necessary and advisable by the governing body of the City.

Section 3. This ordinance shall be in force and take effect from and after its passage by the City Council and approval of the Mayor of the City, and the publication of a summary in the official city newspaper.

PASSED AND APPROVED by the governing body of the City of Maize, Kansas on June 2, 2025.



Pat Stivers
Pat Stivers, Mayor

Sue Villarreal
Sue Villarreal, City Clerk

APPROVED AS TO FORM:

Tom Powell
Tom Powell, City Attorney