



City of Jonesboro

Legislative File Number ORD-59:1736 (version 1)

Ordinance 998

AN ORDINANCE PROVIDING FOR THE ACQUISITION OF OFF-STREET PARKING AREAS; PROVIDING A MEANS OF FINANCING PURCHASE BY ISSUANCE OF NOTES AND CERTIFICATES OF INDEBTEDNESS; PROVIDING FOR THE FUNDING OR REFUNDING OF THE CERTIFICATES AND OTHER DEBT BY BOND ISSUE; SETTING UP CERTAIN FUNDS AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City of Jonesboro, Arkansas, has, in accord and full compliance with Act of the Arkansas Legislature of 1949, Number 468, and other laws and ordinances, established a Parking Authority, which, after study, public presentation, and otherwise in full compliance with all the requirements of law, presented a Master Plan of Automobile Parking Facilities and amendments thereto, together with the program of construction and method of financing same, which has been found and it deemed to be in the public interest.

NOW, THEREFORE, be it ordained by the City Council of the City of Jonesboro, Arkansas:

SECTION 1: That the City Acquire, and the Mayor and City Clerk and Chairman and Secretary of the Parking Authority, are authorized and directed to purchase by deed, option, or contract for the purchase of, or to acquire by condemnation proceedings, for the public use as parking area or passageways, and to improve and make available for parking such places, lots or tracts of land in the City of Jonesboro as shall be approved and designated, including approval of consideration to be paid, by resolution duly adopted by both the Parking Authority and the City Council of Jonesboro.

SECTION 2: The Parking Authority of Jonesboro, Arkansas, is declared to be the duly constituted and heretofore created agency of the City of Jonesboro having the powers and jurisdiction set out in Chapter 49 of Arkansas Statutes, Annotated (Acts of the Arkansas Legislature of 1949, No. 468), and Morris Schoenfield, Berl Smith, James S. Patrick, Joe L. Burns and Stanley Cox are confirmed as the duly appointed and approved members of said Parking Authority, and the Master Parking Plan and the Amendment and Addenda thereto dated November 5, 1959, is approved and declared to be adopted, and the same is found and declared to be in conformity to the statutes and ordinances of the City of Jonesboro, and that all things pre-requisite to the passage of this ordinance have been done and performed according to law.

SECTION 3: To finance the planning, designing, acquisition of property described herein, together with such other property as may be provided by resolution or ordinance, construction, alteration, or improvement of such tracts, the Mayor and the City Clerk are authorized and directed to issue evidences of indebtedness and Revenue Bonds as follows:

(A) Notes or Certificates of Indebtedness to the grantors of said property, secured by seller's lien on

the property conveyed, and payable in installments, or providing that the principal and interest shall be payable only from the Parking Meter Bond Fund hereinafter established.

(B) Certificates of Indebtedness issued and sold at par and accrued interest from date of issue, payable on or before February 1, 1962, to be issued from time to time as funds for the purposes set out herein are required, each certificate to be in the sum of Ten Thousand Dollars (\$10,000.00) or such lesser sum as the issuing officials shall determine, and bearing interest at the rate of five and one-half per cent (5 ½ %) per annum, payable on February 1 and August 1 of each year, and being in substantially the following form:

CERTIFICATE OF INDEBTEDNESS

KNOWN ALL MEN BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, by its Mayor and City Clerk, duly authorized and directed by Ordinance No. _____, does hereby promise to pay to _____ the sum of Ten Thousand Dollars (\$10,000.00) on or before February 1, 1962, together with interest at the rate of five and one-half percent (5 ½ %) per annum, payable on February 1 and August 1, while the principal amount hereof remains unpaid. Both principal and interest are payable at the Citizens Bank, First National Bank, or the Mercantile Bank, in Jonesboro, Arkansas, on presentation of this certificate.

It is certified that this Certificate of Indebtedness is issued to procure necessary funds to finance the planning, designing, acquisition of property for, construction, or alteration of parking facilities in the City of Jonesboro, Arkansas, which has been declared and established by the Acts of Arkansas and ordinances of the City of Jonesboro, Arkansas, in furtherance of the health, safety and general welfare of the public, and a proper public or municipal purpose. All legal requirements and conditions precedent to the issuance and delivery of this certificate and to the execution of the pledge and agreement contained herein have been done and performed in the manner and in the form required by law, and that this Certificate of Indebtedness is a just and legal obligation on the City of Jonesboro, payable from a Parking Bond account, into which seventy-five percent of the gross revenues from all parking in the City of Jonesboro are deposited. This Certificate of Indebtedness is expressly declared to be a negotiable instrument, payable from the Parking Revenues pledged to such payment, and not from General Revenues of the City and not in contravention of any constitutional or statutory prohibition.

The holder of this certificate shall share ratably with holders of other Certificates of Indebtedness authorized by Ordinance recited above, and holders of bonds or other evidences of indebtedness resulting from the purchase of improvement of parking sites in and to a fund designated "Parking Bond Account," into which the City of Jonesboro contracts to place a full seventy-five percent of the gross proceeds or income from parking meters or from the rental of parking space on the streets and on parking lots in the City of Jonesboro, and further secured by a lien on the lots or tracts of real estate acquired for use as public parking areas in the City of Jonesboro, such lien being provided in the ordinance above recited.

In further consideration of the receipt of the principal sum shown in this Certificate of Indebtedness and

in other certificates authorized, the City of Jonesboro agrees and contracts with the holder of this and all other certificates that it will faithfully, and in due time, perform all of the undertakings and agreements contained in said Ordinance No.998, including the issuance and sale of bonds for funds to pay this certificate and interest thereon, or so much of same as has not been paid on or before February 1, 1962.

Any holder hereof who has received this certificate in or as part of the consideration for property acquired by the City under this ordinance shall have the privilege and option of accepting, in lieu of this certificate, such bonds bearing interest at rate of five and one-half percent (5 ½ %) per annum, of approximately average maturities, regardless of the amount or rate of interest established for the other bonds of such issue, if maturities are designated in writing five days before the bond bid date.

In event the other bonds of said issue are not sold on bids for less than five and one-half percent (5 ½ %) per annum interest rate, the holder of this certificate agrees to exchange same at par for bonds of approximately average maturities hearing coupons at such rate.

IN WITNESS WHEREOF, The City of Jonesboro has hereunto set its hand by the signatures of its Mayor and City Clerk, under the Seal of said City, this ____ day of _____, 19____.
CITY OF JONESBORO

By _____, MAYOR

By _____, CITY

CLERK

The total amounts of notes and Certificates of Indebtedness as authorized in Paragraph (a) and Paragraph (b) of this Section shall not exceed the total sum outstanding at any time of Four Hundred Thirty Thousand Dollars (\$430,000.00). (c) Under the authority of the Construction and laws of the State of Arkansas, including particularly Act No. 468 of the Acts of the General Assembly of the State of Arkansas for the year 1949, the City of Jonesboro, by its Mayor and City Clerk, is hereby authorized and ordered to issue its Parking Revenue Bonds in the Total sum of Not exceeding Five Hundred Thousand Dollars (\$500,000.00) for the purpose of funding, paying, or refunding the notes or promises to pay for parking lots, the Certificates of Indebtedness issued under this ordinance, together with outstanding bonds of issues heretofore sold for the purpose of acquiring and improving parking sites and for which any part of the Parking income has been pledged. The bonds shall be issued as such times as the City Council may, by resolution, direct, but, in no event, later than February 1, 1962; shall be payable at designated banks in the City of Jonesboro; shall bear maturity dates not exceeding thirty years from date of issue; and interest shall be payable semi-annually on February 1 and August 1 of each year, and evidenced by coupons. The interest rate shall not exceed that provided in statute, and be fixed by the bid of purchasers of said bonds; the date and terms of sale and of bidding shall be published by one insertion in a newspaper published in Little Rock, Arkansas, and in Jonesboro, Arkansas, not less than thirty days prior to the date of such sale.

The bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
County of Craighead
City of Jonesboro

PARKING REVENUE BONDS
SERIES 1962
No. _____

\$1,000.00

KNOWN ALL MEN BY THEST PRESENTS:

That the City of Jonesboro, Craighead County, State of Arkansas, acknowledges itself to owe, and for value received, hereby promises to pay to bearer, solely from the special fund provided hereinafter set forth, the principal sum of ONE THOUSAND DOLLARS on the first day of February (August) 19____, and to pay solely from said special fund interest hereon at the rate of _____ percent per annum form date, semi-annually on February 1 and August 1 of each year, until the principal hereof is fully paid, upon presentation and surrender of the annexed coupons as they severally become due. Both principal and interest of this bond are made payable at the office of the Citizens Bank, First National Bank, and Mercantile Bank, Jonesboro, Arkansas.

This bond is one of a series of _____ bonds, aggregating _____, dated _____ 19____, and numbered from 1 to _____, inclusive, all of like tenor and effects, except as to number and maturity, and are issued for the purpose of financing and funding the financing of parking facilities.

This bond and other bonds of this series are issued pursuant to and in full compliance with the construction and laws of the State of Arkansas, including particularly Act No. 468 of the Acts of the General Assembly of the State of Arkansas for the year 1949, and pursuant to Ordinance No. 998 of the City of Jonesboro and other laws and ordinances, which laws and ordinances set forth specifically and in detail the pledges and covenants of the City for the payment of principal and of interest. The bonds do not constitute an indebtedness of the City of Jonesboro within any constitutional or statutory limitation. They are payable solely from revenues derived from the operation of parking and related facilities in the City of Jonesboro, which amount provided is sufficient to pay principal and interest on the bonds as the same become due and payable, established and maintain a debt service reserve, and provide for the payment of paying agent's fees. Said amount has been duly set aside and pledged as a special fund for such purposes and identified as "Parking Bond Account." The City of Jonesboro covenants to maintain parking meters and rates for parking which shall be sufficient at all times to provide for the payment of the principal and interest of the bonds of this series as the same become due and payable.

There has been created and is granted a mortgage lien on the real estate in the City of Jonesboro acquired by the City for use as parking lots in favor of the holder of this bond and of the holders of bonds an coupons of the issue of which it forms a part, and said real estate shall remain subject to such lien until the payment in full of all of said bonds and coupons.

This bond is expressly made negotiable under the laws of the State of Arkansas.

The date on or after February 1, 1967, at the option of the City, in whole or in part, in inverse numerical order, at par and accrued interest. Notice of the call for redemption shall be published one time in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation in the State of Arkansas, and in a newspaper published in the City of Jonesboro, Arkansas, at least thirty days prior to redemption date, giving the number and maturity of each bond being called, and, after the date fixed for redemption, each bond so called shall cease to bear interest providing funds for its payment are on deposit with the paying agents at that time.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen, and be performed, precedent to and in the issuance of this bond, have existed, have happened and have been performed in due time, from and manner as required by law; that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitations; and that sufficient of the income and revenue derived and to be derived from the operation of parking meters and for the use of space otherwise available for parking in the City of Jonesboro has been pledged to and will be set aside into a special fund for the payment of the principal and interest on said bonds.

IN WITNESS WHEREOF, the City of Jonesboro, Arkansas, by its City Council, has caused this bond to be signed by the Mayor and the City Clerk, and sealed with the Corporate Seal of said City, and has caused the coupons hereto attached to be executed by the facsimile signature of said Mayor, all as of the _____ day of _____, 19__.

CITY OF JONESBORO

By _____
MAYOR

CITY RECORDER

(SEAL)
(Form of Coupon)

No. _____ BOND NO. _____ \$ _____

On the first day of February (August) 19__, the City of Jonesboro, Arkansas, upon surrender hereof, unless the bond to which this coupon is attached is paid prior thereto, hereby promises to pay to the bearer, solely out of the funds specified in the bond to which this coupon is attached, \$ _____, at the office of _____ Bank, Jonesboro, Arkansas, being six months' interest then due on its Parking Revenue Bond, Series 1962, dated _____.

CITY OF JONESBORO, ARKANSAS

By _____
MAYOR

The bonds shall bear the following certificate:

CERTIFICATE

This is to certify that this bond is one of the _____ number Parking Revenue Bonds, Series 19 ____, of the issue mentioned and described herein _____, 19 ____.

MERCANTILE BANK
Jonesboro, Arkansas

By _____

The Mayor and City Clerk shall do and perform all acts incidental to or in furtherance of the validity and issuance of any or all of the obligations herein described not inconsistent with the ordinance or laws, and, in addition to this ordinance, the provisions of Act of Arkansas 1949, No.468, for benefit of holders of such indebtedness, shall apply and bind the city.

The City contracts with such holders that it will do and perform all such other acts, including adoption of valid ordinances or amendments to this ordinance, as shall or may be required to obtain the approving opinion on the validity of such obligations by the law firm of Townsend & Townsend, Little Rock, Arkansas.

SECTION 4: In order to pay the principal and interest on the bonds as they mature, the existence of parking meters on the streets and parking lots in the City of Jonesboro and the parking time and the price for such time, as designated and shown on or evidenced by data appearing on the meters, is established, approved and confirmed. The time and price of parking as so shown on all additional meters hereinafter established on the streets or on parking lots in the City of Jonesboro, and any other charges for parking, including rental or payments for curb space or fees, either existing or hereafter established, based on existence or construction of driveways in the metered district (not including fines for over parking) shall be as the Council shall designate from time to time by resolution, or as shall be designated by the Parking Authority of Jonesboro, as may be authorized by the Council, provided no meters now or hereafter installed and no change in the time parking is permitted or the time or price provided by meters shall be effective unless and until the same has been approved in writing by the Trustees of the bond issue provided in this ordinance. Unless waived by said Trustees, the City contracts that it will charge for parking spaces within 300 feet of Main, Union, or Church Streets, amounts which shall be equal to that charged on such part of any of said streets as are nearest to said parking spaces.

SECTION 5: The Treasurer of the City of Jonesboro shall be custodian of the revenues derived from parking meters, and the amount of such Treasurer's bond shall be equal to the total of funds in custody of the Treasurer at any one time. The Trustees may require a like bond, in sufficient amount, to be approved by the City Council and the Trustees, of each other City employee handling funds derived

from parking meters. All such parking meter funds or parking funds (other than fines for over parking) received from parking facilities on or off street in the City of Jonesboro, or payments based on curbing or driveways, shall be deposited in such bank or banks as shall from time to time be designated by the City Council. All deposits made by the City shall be in the name of the City and shall be so designated as to indicate the particular fund to which the revenues belong.

SECTION 6: All revenue from parking meters in the City of Jonesboro and all charges for parking or for space available for parking except for other use, not including funds for over parking, shall be deposited in a special account, to be designated "Parking Bond Account." Twenty-five per cent of said fund may be withdrawn and used by the City for the policing, supervision, maintenance, depreciation and operation of parking meters. The City obligates itself to maintain the meters in the City of Jonesboro in operating condition and to afford proper supervision to the end that maximum revenue will be obtained. The remaining seventy-five percent of the gross income from parking shall be used solely, first, to pay the maturing principal and interest and paying agent's charges of the Parking Revenue Bonds or other evidences of indebtedness. After issuance of the bonds provided in this ordinance, the amounts remaining in said account after the payment of principal and interest of the bonds on each February 1 shall be placed in a separate account, designated "Parking Bond Reserve Fund," until said fund equals or exceeds an amount equal to the fifth year's principal and interest due upon said bond issue. The Parking Bond Reserve Fund may be used only for the payment of principal or interest in event insufficient funds are on deposit in the Parking Bond Account at any paying date, and, in event or at such time as any of the Reserve Fund is used for this purpose, said fund shall be increased to the required amount on the ensuing dates of February 1 until the account is reestablished at the total amount designated. Provided the Parking Reserve Fund exists in the amount required and funds are on hand and deposited in the Parking Bond Account sufficient to pay principal and interest for the next twelve months' period, any excess in said fund may be used for the call and prepayment of bonds as herein provided, or for the acquisition and improvement of additional revenue-producing parking space or for purchase or replacement of parking meters. It shall be the duty of the Treasurer to deposit with the paying agents, five days before the maturity date of any bond or interest coupon, an amount equal to the maturities of such date, together with standard paying agent's charges.

SECTION 7: There shall be a statutory mortgage lien upon the property, including all construction thereon, acquired or to be acquired as parking lots in the City of Jonesboro and heretofore acquired with revenue from parking or from loans secured by parking revenue, or acquired with the proceeds of any of the evidences of indebtedness authorized by this mortgage, or with the surplus of parking revenue, as provided in SECTION 6 hereof. Said lien shall exist in favor of the holder of the bonds, and each of them, and to the holder of the coupons attached to said bonds, and the notes or certificates of indebtedness, and all of the indebtedness authorized in SECTION 3 of this Ordinance, and shall remain subject to such statutory lien until payment in full of the entire of said indebtedness. Such lien shall include, but not be limited to, the following described tracts in the City of Jonesboro, and such other tracts as may have been heretofore or may hereafter be acquired for parking purposes:

- (A) Lots 1, 11 and 12 in Block "H" of Original Survey of Jonesboro, Arkansas.
- (B) Lots 1, 2, 3, 4, 5, 6 and 7 in Block "A" of Thorn's Church Street Addition to Jonesboro.
- (C) Lots 8, 9 and 10 in Block 3 of Hurley & Moore's Addition to the City of Jonesboro.

(D) Lots 5 and 6 and the South 26 feet of Lots 4 and 7 in Moor's Subdivision of Lot 2 of Flint's Addition to the City of Jonesboro.

(E) Lots 1, 2, 3, 4, 5 and 6 of Flossie Ritter's Addition to the City of Jonesboro.

(F) Lot 6 and the West 32.9 feet of Lot 3 of Cobb's Survey of the Northwest Quarter of the Southeast Quarter of Section 18, Township 14 North, Range 4 East, less and except a tract of land running 27 feet North and South and 100 feet East and West in the Southwest corner of said Lot 6.

SECTION 8: All bonds paid, either at or before maturity, shall be canceled when payment is made, together with all un-matured coupons appertaining thereto and held by the treasurer, and shall not be reissued. All unpaid interest coupons maturing on or prior to the date of such payment or purchase shall continue to be payable to the respective bearers thereof.

SECTION 9: The bonds and other obligations authorized herein shall be callable for payment prior to maturity, in accordance with the terms set out in the face of the form or description of such evidences of indebtedness as appear in SECTION 3 of this Ordinance, except that any holder who has received such evidence of debt in or as part of the consideration of property acquired by the City under this Ordinance shall have the privilege of refusing prepayment in any partial call and the next lower numbered bonds shall in such event be called for payment in lieu of those subject to this refusal.

SECTION 10: Except as set out in this Section, the City shall not issue or attempt to issue any bonds or obligations claimed to be entitled to either a priority or a parity of lien on the revenues from parking, or on the real estate subject to the lien described in SECTION 7. This prohibition shall not be deemed to include obligations, the security and source of payment of which are subordinate and subject to the priority of the indebtedness herein authorized to be issued.

The City, or designated agencies, may, without violating any provisions of this Ordinance, acquire or rent other or additional lots, pledging only the parking or rental income from such lot, and further secured only by lien on the particular lot to secure the payment of said purchase price or rental, in which event, the indebtedness described in SECTION 3 of this Ordinance shall be secured by a second lien on such lot and on the revenues produced from parking or rental thereon, and the obligation of the City made in connection with such special purchase or rental shall not be secured by, nor shall any parking revenue derived from on-street or other off-street parking sites be applied to the payment of said obligations.

In event and at such time as the City has complied completely with all of the requirements of this Ordinance, including the establishment of the Parking Bond Reserve Fund and the revenues applicable to the payment of the indebtedness provided in this Ordinance has exceeded the average annual requirement of principal and interest on all of said obligations by the amount of 150 %, then the City may, with the written consent of the Trustees, issue additional bonds or evidences of indebtedness, having maturities of principal and interest, which, when added to such maturities of the indebtedness authorized in SECTION 3 of this Ordinance, shall be at a minimum ratio of 1 to 1 ½, average maturities of the total of such debt authorized in SECTION 3, plus the additional indebtedness, including both principal and interest, to said average income for such proceeding two years. The proceeds of such additional indebtedness shall be used only for the purchase and improvement of lots which will result in additional parking revenue being obtained, and the lots so acquired and revenue to be derived from them

shall be subject to all the provisions and pledges of this Ordinance.

SECTION 11: The terms of this Ordinance shall constitute a contract between the City of Jonesboro, Arkansas, and the holder or holders of the indebtedness herein described, and no unauthorized variation or change in the undertakings herein set forth shall be made while any of these bonds are outstanding. If there be default in the payment of principal or interest on any of said debt, or if the City shall fail to complete any other obligation which it herein assumes, or fail to abide by the provisions of this Ordinance, and such default shall continue for thirty days thereafter, any court having jurisdiction in any proper action which may be instituted, either by the Trustees for all the holders of such indebtedness, or by the holder himself, or by any group of said holders, may appoint a receiver to administer the parking area and parking on the streets with power to charge and collect rates, or by mandatory injunction or otherwise, to cause such charges and collections to be made, sufficient to provide for the expenses of the receivership, the payment of the indebtedness and interest thereon and for the payment of necessary operating expenses, and to apply the income and revenues in conformity with said statutes and this Ordinance, but when all defaults are cured, the receivership shall be ended and the management and control of the parking facilities shall be restored to the City.

SECTION 12: No remedy conferred by this ordinance upon the Trustees or the holder or holders of indebtedness described is to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and may be exercised without exhausting and without regard to any other remedy conferred by this ordinance or be statute. No waiver of any default or breach of duty or contract by the Trustees or by any holder of the debt herein described shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies. No delay or omission of the Trustees or any holders of the indebtedness described to exercise any right or power upon any default shall impair any such right or power or be construed to be a waiver of any such default or acquiescence therein. Every right and remedy protecting the holders of the indebtedness may be enforced and exercised from time to time and as often as may be deemed expedient.

SECTION 13: When ever the word "Trustees" is used in this Ordinance, it shall refer to the Citizens Bank of Jonesboro, First National Bank of Jonesboro, and Mercantile Bank of Jonesboro, jointly, or their successors. The recitals in this Ordinance and in the face of the bonds are the recitals of the City, and not of the Trustees. The Trustees shall not be required to take any action as Trustees, unless they shall have been requested to do so in writing by the holders of not less than ten percent in principal amount of the debt secured in this Ordinance then outstanding, and shall have been offered reasonable security and indemnity against the cost, expense and liabilities to be incurred therein or thereby. The Trustees may resign at any time by ten days' notice, in writing, to the City and the majority in value of the holders of the debt described herein may remove the Trustees at any time, with or without cause. In the event of a vacancy or vacancies in the office of Trustee, either by resignation or removal, the majority in value of the holders of the outstanding debt herein described may appoint new Trustees or an new Trustee, such appointment to be evidenced by a written instrument or instruments, filed with the City Recorder of Jonesboro, If such creditors shall fail to fill a vacancy within thirty days after the same shall occur, then the City shall forthwith designate new Trustees by a written instrument, filed in the office of the City Recorder. Any successor Trustees shall have all the power herein granted to the original Trustees.

SECTION 14: There shall be published for one insertion in The Jonesboro Sun, which is hereby found and declared to be a newspaper of general circulation in the City of Jonesboro, Arkansas, this Ordinance, to which shall be attached a notice signed by the Mayor, in substantially the following form:

NOTICE

Notice is hereby given that the City Council of Jonesboro, Arkansas, has adopted the ordinance hereinafter set out and that the City contemplates the issuance of indebtedness described therein; that any person interested may appear before a meeting of the City Council on the 7th day of December, 1959, at 7:30 p.m., at the usual meeting place of the City Council, and present protests. At such hearing, all objections and suggestions will be heard, and the Council will take such action as is deemed proper in the premises.

This 17th day of November, 1959.