

(Published in the Topeka Metro News March 16, 2015)

ORDINANCE NO. 19943

AN ORDINANCE introduced by City Manager Jim Colson, concerning water and sewer services outside of the city limits, amending City of Topeka Code § 13.10.120 and § 13.10.220 and repealing original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 13.10.120, Water service to owner of real property outside city limits - Requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Water service to owner of real property outside city limits – Requirements.**

~~(a) Annexation.~~

~~(1) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after February 15, 2007, and for which the structure has not been connected to the city's water system that are contained within the current municipal services area established by the city council under TMC [18.30.010](#) ("MSA") shall require annexation prior to water service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The cost to design and construct the extension of water mains necessary to serve these areas may be paid through the city of Topeka water fund depending on priority and if sufficient capital improvement funding is available. The developer may, depending on the proximity to existing water transmission mains, bear part, or all, of the cost of extending city water service to the development. Such extension costs would be in addition to the payment of connection fees and the cost of the construction of the water infrastructure within the development.~~

~~(2) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after February 15, 2007, and for which the structure has not been connected to the city's water system outside of the city's corporate boundaries that are not contained within the MSA shall require annexation prior to service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The total cost of extending the city's water service shall be borne by the developer without any participation by the city. Such extension costs would be in addition to the payment of connection fees and the cost of the construction of the water infrastructure within the development.~~

~~(b) Platting. Further, before city water service is provided to an owner of real property outside city limits, the owner shall plat or cause to be platted the property to be served. Exception: An owner of real property outside the city limits may be exempt from the platting requirement set forth above, provided the planning director and public works director jointly find that all of the following conditions exist:~~

~~(1) Land on which the principal structure is that of an existing detached single-family dwelling. That there are no other structures except permitted accessory structures, or uses for which water service is to be provided.~~

~~(2) As determined by the city of Topeka public works department, adequate utility and drainage easements and/or street rights-of-way presently exist or can be secured by separate written instrument and recorded with the Shawnee County register of deeds for which the property owner consents.~~

~~(3) There are no existing or anticipated drainage problems related to the site or the development.~~

~~(4) Adequate public utilities and services otherwise service the site and the proposed development conforms to the dimensional requirements of the zoning district.~~

~~(5) The existing or proposed improvement is compliant with the current adopted Shawnee County wastewater management plan, or variances as may be granted by the applicable governing body as provided by said plan.~~

~~(c) An owner of real property outside the city limits may be exempt from the annexation requirement set forth in subsection (a)(1) or (a)(2) of this section if the property owner consents to annexation of the real property to be served and at least one of the following conditions is satisfied:~~

~~(1) To eliminate an imminent threat to public health and safety as determined and/or ordered by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law.~~

~~(2) To promote an economic development project as determined by the city council.~~

~~(3) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the city council.~~

~~(4) The city is obligated to provide water service to the property owner by contract or other legally enforceable document.~~

~~(5) The planning commission has, prior to February 15, 2007, approved a preliminary or final plat which includes city water service.~~

~~(6) The city has previously provided water service to the same parcel of real estate for which service has been requested. The reconnection of service shall be limited to the same size of service line as the previous service. Further, the~~

78 ~~reconnection shall be limited to the same number of lines or connections which~~  
79 ~~previously existed.~~

80 ~~(7) To allow the city to provide water service to a facility owned and operated by~~  
81 ~~a political and taxing subdivision with approval of the city council.~~

82 Real property that is located outside of the city's boundaries may be eligible for  
83 water service if the property meets the requirements in subsection (a) and (b).

84 (a) Annexation. The property to be served is annexed into the city unless the  
85 property owner consents to annexation and one of the following applies:

86 (1) There is an imminent threat to public health and safety as  
87 determined by the Kansas Department of Health and Environment or a similar  
88 regulatory agency, or a court of law. However, this exemption does not apply to  
89 property located between the original location of the public infrastructure and the  
90 property to be served.

91 (2) Connection to public infrastructure will promote an industrial  
92 development project within the employment tier of the urban growth area or  
93 outside the urban growth area consistent with the comprehensive plan.

94 (3) The parcels were created before February 15, 2007, in accordance  
95 with both the subdivision regulations and zoning in effect at the time of their  
96 creation, and water infrastructure, not including transmission lines, is adjacent to  
97 the property to be served.

98 (4) The city has agreed to provide water service to the property owner  
99 by virtue of the following: (i) a contract; (ii) approval of a final plat prior to  
100 February 15, 2007 which includes water service; or (iii) an approved plat meeting

101 the comprehensive plan's urban growth area design standards and compliance  
102 with the zoning that was in effect on March 16, 2015.

103 (5) The city has previously provided water service to the same parcel  
104 of real estate for which service has been requested. The reconnection of service  
105 shall be limited to the same size of service line as the previous service. Further,  
106 the reconnection shall be limited to the same number of lines or connections  
107 which previously existed.

108 (6) Service is requested by a facility owned and operated by a political  
109 and taxing subdivision.

110 (b) Platting. The property to be served is platted consistent with the design  
111 standards and development policies contained in the adopted elements of the  
112 comprehensive plan unless all of the following conditions exist:

113 (1) A detached single-family dwelling is located on the property and  
114 there are no other structures except permitted accessory structures.

115 (2) Adequate utility and drainage easements and/or street rights-of-  
116 way exist, as determined by the director of public works or designee, or such  
117 easements are provided by the property owner.

118 (3) There are no existing or anticipated drainage problems related to  
119 the site or the development.

120 (4) Adequate public utilities service the property.

121 (5) Existing or proposed improvements comply with all applicable  
122 zoning and development code requirements.

Section 2. That section 13.10.220, Annexation and funding of sewer service and extensions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Annexation and funding of sewer service and extensions~~Sewer service to owner of real property outside city limits – Requirements.

~~(a) It is the desire of the city of Topeka to conform to the community goals statement adopted as part of the 1986 Shawnee County wastewater management plan, as amended. Specifically the statements include:~~

~~(1) Direct new growth to developable areas served by existing public facilities.~~

~~(2) Use the community's provision of public facilities as a method of guiding growth.~~

~~(3) Identify environmentally sensitive areas and guide development away from areas of greatest adverse environmental impact.~~

~~(4) Identify and strive to preserve prime agricultural land for production of food and fiber.~~

~~(5) Encourage residential development near existing essential services, facilities, and centers of employment.~~

~~(b) The Shawnee County wastewater management plan designates service areas into four categories. These include: urban, primary urban, secondary urban, and rural-agriculture. Urban areas are those which are currently within the city of Topeka limits. Primary urban are those areas which are anticipated to become urbanized by 2005. Secondary urban are those areas which are expected to become urbanized by 2025. Rural-agriculture areas include the remainder of Shawnee County. It is the city of Topeka's intent to serve urban and primary urban service areas, and in some cases, to~~

~~serve secondary urban service areas. In order to provide new services to expected growth areas, water pollution control will identify annual capital improvement expenditures as well as revenue from connection fees to facilitate the orderly expansion of the city of Topeka and its wastewater utility.~~

~~(c) Funding and annexation in the service areas will be subject to the following requirements:~~

~~(1) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are adjacent to the existing city limits requiring sewer service shall require annexation prior to service being provided.~~

~~(2) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the primary service area as defined in the Shawnee County wastewater management plan, as amended, and also contained in the current municipal service area as defined in TMC Title [18](#), Division 3, shall require annexation, except as provided in subsection (c)(6) of this section, prior to service being provided. A portion of the cost to design and construct the major interceptors necessary to serve these areas may be paid through the city of Topeka water pollution control fund if sufficient service extension funding is available and if the~~

extension is consistent with the Topeka utilities extension growth policy maintained by the public works department.

~~(3) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the current municipal service area as defined in TMC Title [18](#), Division 3, shall require annexation, except as provided in subsection (c)(6) of this section, prior to service being provided. A portion of the cost to design and construct the major interceptors necessary to serve these areas may be paid through the city of Topeka water pollution control fund if sufficient service extension funding is available and if the extension is consistent with the Topeka utilities extension growth policy maintained by the public works department.~~

~~(4) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the primary service area as amended and not in the current municipal service area as defined in TMC Title [18](#), Division 3, shall require consent to annexation prior to service being provided. Major interceptors necessary to serve proposed development in this area shall conform to approved sizing and routing as determined by the city engineer. The total cost of extending city sewer service, including interceptors and service lines, shall be borne by the developer without any participation by the city of Topeka.~~



~~(5) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the secondary urban service area as amended shall require consent to annexation prior to service being provided. Major interceptors necessary to serve proposed development in this area shall conform to approved sizing and routing as determined by the city engineer. The total cost of extending city sewer service, including interceptors and service lines, shall be borne by the developer without any participation by the city of Topeka.~~

~~(6) An owner of real property outside the city limits may be exempt from the annexation requirement set forth in subsection (c)(2) or (c)(3) of this section if the property owner consents to annexation of the real property to be served and at least one of the following conditions are satisfied:~~

~~(i) To eliminate an imminent threat to public health and safety as determined and/or ordered by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law.~~

~~(ii) To promote an economic development project as determined by the city council.~~

~~(iii) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the city council.~~

~~(iv) The city is obligated to provide sanitary sewer service to the property owner by contract or other legally enforceable document.~~

~~(7) The city council shall be notified of the approval of a sewer connection requiring only a consent to annexation under the exceptions set forth in subsections (c)(6)(i) through (iv) of this section.~~

Real property that is located outside of the city's boundaries may be eligible for sewer service if the property meets the requirements in subsection (a) and (b).

(a) Annexation. The property to be served is annexed into the city unless the property owner consents to annexation and one of the following applies:

(1) There is an imminent threat to public health and safety as determined by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law. However, this exemption does not apply to property located between the original location of the public infrastructure and the property to be served.

(2) Connection to public infrastructure will promote an industrial development project within the employment tier of the urban growth area or outside the urban growth area consistent with the comprehensive plan.

(3) The parcels were created before February 15, 2007, in accordance with both the subdivision regulations and zoning in effect at the time of their creation, and sewer infrastructure, not including transmission lines, is adjacent to the property to be served.

(4) The city has agreed to provide sewer service to the property owner by virtue of the following: (i) a contract; (ii) approval of a final plat prior to February 15, 2007 which includes sewer service; or (iii) an approved plat meeting the comprehensive plan's urban growth area design standards and compliance with the zoning that was in effect on March 16, 2015.

(5) The city has previously provided sewer service to the same parcel of real estate for which service has been requested. The reconnection of service shall be limited to the same size of service line as the previous service. Further, the reconnection shall be limited to the same number of lines or connections which previously existed.

(6) Service is requested by a facility owned and operated by a political and taxing subdivision.

(b) Platting. The property to be served is platted consistent with the design standards and development policies contained in the adopted elements of the comprehensive plan unless all of the following conditions exist:

(1) A detached single-family dwelling is located on the property and there are no other structures except permitted accessory structures.

(2) Adequate utility and drainage easements and/or street rights-of-way exist, as determined by the director of public works or designee, or such easements are provided by the property owner.

(3) There are no existing or anticipated drainage problems related to the site or the development.

(4) Adequate public utilities service the property.

(5) Existing or proposed improvements comply with all applicable zoning and development code requirements.

Section 3. That original § 13.10.120 and § 13.10.220 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 4. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 5. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 6. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on March 10, 2015.

CITY OF TOPEKA, KANSAS

ATTEST: Larry E. Wolgast, Mayor

Brenda Younger, City Clerk