

1 (Published in the Topeka Metro News February 28, 2007)

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3 **ORDINANCE NO. 18820**

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5 AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner,  
6 amending City of Topeka Code § 146-30 and § 146-37 concerning  
7 water service to an owner of real property outside city limits, and  
8 specifically repealing said original section.  
9

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

11  
12 Section 1. That City of Topeka Code § 146-30, Service outside city, is hereby  
13 amended to read as follows:

14 **Service outside city.**

15 (a) Services to property outside of the city may be connected to mains  
16 belonging to the city in only with the approval of the department of public works. Such  
17 services shall comply with all ordinances, specifications and regulations applicable to  
18 services to property within the city, including the rules and regulations covering the  
19 subdivision of land and the approval of subdivision plats. If such service is part of an  
20 outside water system covered by a contract with the city, then in that case the terms of  
21 the contract shall govern accordance with the provisions of City of Topeka Code § 146-  
22 37.

23 (b) ~~The owner of a distribution system outside the city may increase the rate~~  
24 ~~to its individual customers only in an amount sufficient to amortize the cost of the~~  
25 ~~installation of the system. The city may require at any time a statement of the receipts~~  
26 ~~and disbursements in connection with the operation of any system of distribution outside~~  
27 ~~the city limits and the city may increase its rates to the system if the net proceeds~~  
28 ~~therefrom are greater than that required for the cost of the original construction, or if the~~  
29 ~~rate charged water users on the system is lower than the prevailing rates in the city.~~

LORD/Water Service Outside City Amendment

2/9/07

BJL

30           (eb) The city may contract to furnish water to any distribution system outside  
31 the city limits and to operate and maintain such system. The negotiation of new water  
32 supply contracts or amendments to existing contracts shall be subject to the City's  
33 policy for the sale of water to rural water districts set forth in City of Topeka Resolution  
34 No. 7339, unless an exception thereto is specifically granted by the City Council,  
35 provided that:

36                   (1) ~~The installation of the system is made without cost to the city or any~~  
37 ~~of its divisions;~~

38                   (2) ~~The installation of all mains, services and equipment are made~~  
39 ~~under the ordinances of the city and comply with the specifications and~~  
40 ~~regulations of the water division and are subject to the inspection and approval of~~  
41 ~~the water division;~~

42                   (3) ~~If the contract provides for the city to collect for the individual~~  
43 ~~meters, the city shall have the same rights of collection and control as it has~~  
44 ~~within the city limits;~~

45                   (4) ~~The city shall approve the contracts for and the cost of the~~  
46 ~~installation;~~

47                   (5) ~~No service or main may be attached to the system covered by this~~  
48 ~~contract except by the city or with its approval;~~

49                   (6) ~~The city shall have complete charge of the physical maintenance~~  
50 ~~and operation of the system after its completion; and~~

51 ~~(7) The city shall make all individual water meter readings in a like manner as water~~  
52 ~~meters are read within the city.~~

53            Section 2.    That City of Topeka Code § 146-37, Water service to owner of real  
54 property outside city limits, is hereby amended to read as follows:

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

56            Requirements:

57            (a)    ~~Consent to a~~Annexation.

58                    (1)    New or redeveloped parcels established by preliminary or final plat,  
59 lot, split or otherwise, after February 15, 2007, and for which the structure has  
60 not been connected to the City's water system that are contained within the  
61 current Municipal Services Area established by the City Council under Topeka  
62 City Code section 134-1 ("MSA") shall require ~~consent to~~ annexation prior to  
63 water service being provided. Extension of water transmission mains shall  
64 conform to sizing, routing and other specifications as determined by the city  
65 engineer and water superintendent. The cost to design and construct the  
66 extension of water mains necessary to serve these areas may be paid through  
67 the City of Topeka water fund depending on priority and if sufficient capital  
68 improvement funding is available. The developer may, depending on the  
69 proximity to existing water transmission mains, bear part, or all, of the cost of  
70 extending City water service to the development. Such extension costs would be  
71 in addition to the payment of connection fees and the cost of the construction of  
72 the water infrastructure within the development.

73                    (2)    New or redeveloped parcels established by preliminary or final plat,  
74 lot, split or otherwise, after February 15, 2007, and for which the structure has  
75 not been connected to the City's water system outside of the city's corporate

76 boundaries that are not contained within the MSA shall require ~~consent to~~  
77 annexation prior to service being provided. Extension of water transmission  
78 mains shall conform to sizing, routing and other specifications as determined by  
79 the city engineer and water superintendent. The total cost of extending the City's  
80 water service shall be borne by the developer without any participation by the  
81 City. Such extension costs would be in addition to the payment of connection  
82 fees and the cost of the construction of the water infrastructure within the  
83 development.

84 (b) Platting. Further, before city water service is provided to an owner of real  
85 property outside city limits, the owner shall plat or cause to be platted the property to be  
86 served.

87 Exception:

88 An owner of real property outside the city limits may be exempt from the  
89 platting requirement set forth above provided the planning director and  
90 public works director jointly find that all of the following conditions exist:

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

94 (2) As determined by the City of Topeka Public Works Department,  
95 adequate utility and drainage easements and/or street rights-of-way presently  
96 exist or can be secured by separate written instrument and recorded with the  
97 Shawnee County Register of Deeds for which the property owner consents.

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

100 (4) Adequate public utilities and services otherwise service the site and  
101 the proposed development conform to the dimensional requirements of the  
102 zoning district.

103 (5) The existing or proposed improvement is compliant with the current  
104 adopted Shawnee County Wastewater Management Plan, or variances as may  
105 be granted by the applicable governing body as provided by said plan.

106 (c) An owner of real property outside the city limits may be exempt from the  
107 annexation requirement set forth in subsections (a)(1) or (a)(2) above if the property  
108 owner consents to annexation of the real property to be served and at least one of the  
109 following conditions are satisfied:

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

113 (2) To promote an economic development project as determined by the  
114 City Council.

115 (3) To avoid unnecessary hardship in situations not created by the  
116 actions of the applicant as determined by the City Council.

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

119 (5) The Planning Commission has prior to February 15, 2007,  
120 approved a preliminary or final plat which includes City water service.

