

1 (Published in the Topeka Metro News December 5, 2007)

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3 **ORDINANCE NO. 19000**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing
6 City of Topeka Code § 126-66 through 126-71 concerning approval
7 procedure for City financed developer projects.
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9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

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11 Section 1. That City of Topeka Code § 126-66, request for project petition, is
12 hereby specifically repealed.

13 **~~Request for project petition.~~**

14 ~~Before any developer lets a contract or orders any work, all or part of which is to~~
15 ~~be financed by bonds of the city in accordance with K.S.A. 12-6a01, et seq., such~~
16 ~~developer shall submit a written request for a project petition to the department of public~~
17 ~~works. The written request shall indicate the general nature of the proposed~~
18 ~~improvement, the approximate cost, proposed method of assessment and proposed~~
19 ~~apportionment of cost, if any, between the proposed improvement district and the city at~~
20 ~~large. The written request shall also include a statement, under oath, that the developer~~
21 ~~has no financial interest in any property with delinquent special assessments anywhere~~
22 ~~within the city. If the director of public works approves the request, then the developer~~
23 ~~shall instruct his engineers to prepare cost estimates which, when prepared, shall be~~
24 ~~submitted to the head of the engineering division of the department of public works.~~

25 Section 2. That City of Topeka Code § 126-67, formal petition: contents, is
26 hereby specifically repealed.

27 **~~Formal petition; contents.~~**

28 ~~Upon receipt of the cost estimate under section 126-66 the engineering division~~

29 shall prepare a formal petition setting forth the following:

- 30 (1) ~~— The general nature of the proposed improvement;~~
- 31 (2) ~~— The estimated or probable cost;~~
- 32 (3) ~~— The extent of the proposed improvement district to be assessed;~~
- 33 (4) ~~— The proposed method of assessment;~~
- 34 (5) ~~— The proposed apportionment of cost, if any, between the improvement~~
35 ~~district and the city at large;~~
- 36 (6) ~~— A request that such improvement be made without notice and hearing;~~
37 ~~and~~
- 38 (7) ~~— A statement that the developer shall notify in writing each and every~~
39 ~~purchaser of property regarding special assessments which may be~~
40 ~~assessed to pay for the improvement.~~

41 ~~The bottom of each page of the petition shall specify that names may not be~~
42 ~~withdrawn from the petition by the signer thereof after the city council commences~~
43 ~~consideration of the petition or later than seven days after such filing, whichever occurs~~
44 ~~first. The formal petition shall then be mailed to the developer for obtaining signatures.~~

45 Section 3. That City of Topeka Code § 126-68, approval of project, is hereby
46 specifically repealed.

47 **~~Approval of project.~~**

48 (a) ~~— After the petition has been signed, the developer shall return it to the~~
49 ~~engineering division of the department of public works for review. If the engineering~~
50 ~~division finds the petition sufficient, the petition shall be forwarded together with written~~
51 ~~indicia of the developer's financial commitment to the city council. The financial~~

52 ~~commitment shall be either funding (cash, cashier's check or escrow account) equal to~~
53 ~~20 percent of the estimated cost of the project or a financial guarantee (irrevocable~~
54 ~~letter of credit, corporate completion bond) equal to 35 percent of the estimated cost of~~
55 ~~the project. The required cash funds shall be provided to the city treasurer's office and~~
56 ~~financial guarantee will be provided to the city clerk's office prior to the setting of a bid~~
57 ~~date. The city treasurer's office and the city clerk's office will notify the engineering~~
58 ~~division of receipt of the financial commitment. The city council shall not be required to~~
59 ~~hold a public hearing on the petition. If no funds are available for financing the project,~~
60 ~~then the city council may find the project not advisable. If the city council approves the~~
61 ~~petition, the developer will be notified to have his engineer prepare plans and~~
62 ~~specifications for approval by the engineering division. The city will then let the project~~
63 ~~for bids, hire a contractor, and inspect the project. The developer's engineer shall be~~
64 ~~required to stake the project.~~

65 ~~(b) — Cash funding will be used to reduce the amount of project costs covered~~
66 ~~by special assessment bond financing. The financial guarantee will be applied annually~~
67 ~~to satisfy the principal and interest costs of bonded public improvements in the event~~
68 ~~any special assessments are not paid when due. The financial guarantee will be~~
69 ~~released, upon the written request of the developer, when principal buildings on at least~~
70 ~~35 percent of the properties (by lot) within the benefit district have received final~~
71 ~~inspection or when the appraised value of improvements located upon the property~~
72 ~~within the improvement district is equal to seven times the amount of special~~
73 ~~assessments, whichever occurs sooner. The developer shall be responsible for~~
74 ~~providing written evidence that the applicable condition has been met prior to release of~~

75 the financial guarantee.

76 Section 4. That City of Topeka Code § 126-69, assessment of completed
77 project: hearing, is hereby specifically repealed.

78 ~~**Assessment of completed project; hearing.**~~

79 ~~After the project is completed, the engineering division of the department of~~
80 ~~public works will prepare assessments as soon as the city's finance department~~
81 ~~presents final cost data and a hearing will be held on the assessment.~~

82 Section 5. That City of Topeka Code § 126-70, financing of public
83 improvements by special assessments without financial commitment; conditions, is
84 hereby specifically repealed.

85 ~~**Financing of public improvements by special assessments without**~~
86 ~~**financial commitment; conditions.**~~

87 ~~Public improvements financed by special assessments may be authorized by the~~
88 ~~city council without a financial commitment when deemed to be in the public interest~~
89 ~~and when one or more of the following conditions exist:~~

90 ~~(1) — Improvements are ordered by resolution of the city council.~~

91 ~~(2) — The majority of the property (either by square foot or lot) in the benefit~~
92 ~~district is in public ownership.~~

93 ~~(3) — The benefit district is in multiple ownership and majority of the land (either~~
94 ~~by square foot or lot) therein is developed with principal buildings.~~

95 Section 6. That City of Topeka Code § 126-71, Interest installments; interest
96 rates, is hereby specifically repealed.

97 ~~**Interest installments; interest rates.**~~

