AN ORDINANCE introduced by Councilmember Brett Blackburn, relating to water service to owners of real property outside city limits, amending Topeka City Code § 146-37 and specifically repealing said original section.

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

Section 1. That City of Topeka Code Ordinance No. 18399, Section 1, is hereby amended to read as follows:

Water service to owner of real property outside city limits.

Requirements:

(a) Annexation. City of Topeka water service provided to an owner of real property outside city limits will be conditioned on annexation of the area to be served.

(b) Consent to annexation. An owner of real property outside the City limits may be exempt from the annexation requirement set forth in subsection (a) above if the property owner consents to annexation of the area to be served and at least one of the following conditions are present:

(1) The city planning commission has prior to March 1, 2003, approved a preliminary or final plat which includes city water service; or New or redeveloped parcels that are contained within the current Municipal Services Area established by the City Council under Topeka City Code § 134-1 ("MSA") shall require consent to 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) The city is obligated to provide water service by contract or other legally enforceable document to an individual, a rural water district, improvement district, or political subdivision; or New or redeveloped parcels outside of the city's corporate boundaries that are not contained within the MSA shall require consent to 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.

(3) 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 reconnection shall be limited to the same number of lines or connections which previously existed; or

(4) The parcel of land to be served lies outside of the three-mile area adjacent to the City of Topeka boundaries; or
(5) To eliminate an imminent threat to public health and safety as determined by the public works director or his or her designee; or

(6) To promote an economic development project as determined by resolution of the city council.

(7) The city council by resolution approves the extension of water service on a case-by-case basis to avoid unnecessary hardship in situations not created by the actions of the applicant.

(ceb) 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 is 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.

Section 2. That original City of Topeka Ordinance No. 18399, Section 1 is hereby
specifically repealed.

Section 3. This Ordinance shall take effect and be in force from and after its
passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council JUN 07 2005.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 5/3/05 BY SBC
TO BE CODIFIED x
NOT TO BE CODIFIED

VYORD/WATERSERVICE 05/13/05 4