

(Summary Published in the McPherson Sentinel _____, 2018, once)

ORDINANCE NO. 3270

AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS AMENDING SECTION 86-163 TO ARTICLE IV OF THE CODE OF THE CITY OF MCPHERSON, KANSAS, REGARDING TRANSITIONING MULTIPLE PROPERTIES ON A COMMON SEWER SERVICE LINE TO SEPARATE SERVICE LINES OR PROPERTIES THAT DO NOT HAVE DIRECT ACCESS TO A CITY SEWER MAIN.

WHEREAS, the City Commission of the City of McPherson (the "City") has reviewed the existing provisions of the Code of the City of McPherson, Kansas (the "Code") pertaining to sewage and sewage disposal; and

WHEREAS, the City Commission desires to provide safe and efficient sewage disposal to all residential properties within the city limits; and

WHEREAS, some residential properties within the City limits do not have direct access to a city sewer main and cross adjoining property without formal easements including running underneath other homes and structures; and

WHEREAS, K.S.A. 12-6a01, *et. seq.*, grants the authority of the governing body to create improvement districts to improve sanitary sewer systems and appurtenances thereto; and

WHEREAS, property owners within the improvement district may be assessed the costs of such improvements; and

WHEREAS, Kansas law provides that private property may be purchased or condemned for sewers, as may be needed or required for the use of the City; and

WHEREAS, property owners who choose to dedicate easements for an improvement district should not shoulder the burden of loss of property without compensation and any non-dedicating property owners should not receive the benefit of such other dedications while also receiving full compensation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MCPHERSON, KANSAS:

Section 1. Amendment to **Code Section 86-163**. From and after the effective date of this ordinance, Section 86-163 of the Code is deleted in its entirety and in its place the following shall be inserted:

The governing body hereby declares that the common use of one sewer service line by multiple residential properties or properties that do not have direct access to a City sewer main is injurious

to the health and safety of the citizens of the City due to increased likelihood of failure, multiple properties subject to sewer back-up by any one failure and the difficulty of repair and maintenance of such service lines. The City acknowledges that there are multiple residential properties in the City with such common sewer access through one service line or through separate service lines without formal easement and running underneath houses and other structures and that as the opportunity arises, such residences should be switched to separate service lines so that each property meets the requirements for new residential construction.

- (A.) After an affected property owner reports two or more sewer problems with a common sewer access through one service line to the City Public Works Department or at the discretion of the Director of Public Works, the City may notify the owners of each property with service connected to the common service line of the City's intent to create an improvement district and to improve the system by creating separate service lines for each residential property. The City may also create an improvement district absent two or more sewer problems if all affected owners request such action in writing. The creation of the improvement district and the timing and priority of such improvement work shall be at the discretion of the City, trying to balance the risk of harm, the number of residences affected and the availability of City resources.

- (B.) After an affected property owner reports two or more sewer problems with a sewer lateral that does not have direct access to the City main, the City Public Works Department or at the discretion of the Director of Public Works, the City may define a scope and limits of participating properties required to be improved. The City may create an improvement district to improve the system by creating direct access for each residential property. The City may also create an improvement district absent two or more sewer problems, if all affected owners request such action in writing. The creation of the improvement district and the timing and priority of such improvement work shall be at the discretion of the City, trying to balance the risk of harm, the number of residences affected and the availability of City resources.
 - (1) The City, at its sole discretion, will design, with either in-house staff or by a consulting engineer, a new City main to allow new service lines to connect to each of the affected properties.
 - (2) The City will obtain approval of the new City main by the Kansas Department of Health and Environment and any other relevant authorities.
 - (3) The City will acquire any easements or rights-of-way to construct the new lateral.
 - (4) The City will hire a contractor to install the new City main and to hook up the service lines for each of the affected properties to the new City main. Once the new City main is installed, all properties in the improvement district shall hook-up to the new City main directly.

(C.) Special Assessment. Pursuant to K.S.A. 12-6a01 *et. seq.*, the City will designate the properties that were served by the common sewer access as an improvement district and assess all costs associated with the engineering design, right-of-way or easement acquisitions, construction inspection, and construction cost associated with the new sewer system as follows:

(1) Each property owner shall pay a pro rata share of the Improvement District based upon the value of the lots benefited including improvements as determined by the McPherson County appraisers office for *ad valorem* tax purposes for the year prior to the year the improvement district is created. Any property owner that dedicates an acceptable easement to the City for the improvement district without compensation shall not share in any easement acquisition cost, but shall share pro rata in all other costs.

(2) Each individual property owner can pay for the cost in a lump sum payable to the City, or the cost will be assessed pursuant to K.S.A. 12-6a01, *et. seq.*

Section 2. Repeal. All parts of the Code or other ordinances conflicting with the provisions of this Ordinance are hereby repealed.

Section 3. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

PASSED BY THE GOVERNING BODY AND SIGNED BY THE MAYOR this ___ day of _____, 2018.

[SEAL]

Thomas A. Brown, Mayor

Tamra K. Seely, City Clerk

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Ordinance No. 3270, Summary

On May 7, 2018 the City of McPherson, Kansas adopted Ordinance No. 3270 amending Section 86-163 to Article IV of the code of the City of McPherson, Kansas, regarding transitioning multiple properties on a common sewer service line to separate service lines. A complete copy of this Ordinance may be obtained or viewed free of charge at www.mcpcity.com or at the City Clerk's office in the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary as legally accurate and sufficient.