

(Published in *The Augusta Daily Gazette* on February 4, 2012)

ORDINANCE NO. 1506

AN ORDINANCE AMENDING ORDINANCE NO. 1460 OF THE CITY OF ANDOVER, KANSAS.

WHEREAS, on January 24, 2012, a petition requesting reallocation of special assessments (the "Petition") was filed in the Office of the City Clerk of the City of Andover, Kansas, requesting that a portion of the special assessments being levied by Ordinance No. 1460 of the City, duly adopted April 27, 2010 and published in the official newspaper of the City on April 30, 2010 (the "2010 Ordinance") be reallocated as between Block 1, Lot 1 and Block 1, Lot 2, Marketplace East Addition in the City of Andover, Butler County, Kansas (the "Reallocation Area"); and

WHEREAS, the Petition was signed by 100% of the owners of the property liable for the special assessments to be reallocated, as previously levied against Block 1, Lot 2 in the Reallocation Area by the 2010 Ordinance for the costs of constructing certain Marketplace East Sanitary Sewer Improvements, Marketplace East Water Distribution Improvements, Marketplace East Water Main Improvements, Marketplace East Accel/Decel Lane at Yorktown & Kellogg Improvements, Marketplace East Paving & Incidental Drainage Improvements and Marketplace East Traffic Signals at Yorktown & Kellogg Improvements (collectively, the "Improvements"); and

WHEREAS, the Petition requests, that the special assessments previously levied against Block 1, Lot 2 in the Reallocation Area (collectively, the "Special Assessments") be levied against Block 1, Lot 1 in the Reallocation Area; and

WHEREAS, the Petition further states that the owners of 100% of the lots in the Reallocation Area (the "Owners"), find the reallocation to be equitable and appropriate under the circumstances and that it will result in the Special Assessments being apportioned against the property in accordance with the special benefits accruing thereto by reason of the Improvements, and that the Owners acknowledge that not all property benefited by the Improvements would be reassessed under the petition for respread, but that the petition effects only lots in the Reallocation Area and is thereby submitted by the owners of 100% of the effected lots pursuant to revised subsection (c) of K.S.A. 12-6a04; and

WHEREAS, the Owners (i) waived any right they may have to inclusion of other benefited properties (whether owned or not) as part of any improvement district, (ii) waived any formal notice of and the holding of a public hearing by the City for the purpose of considering the reallocation of special assessments, (iii) consented to the levy of the Special Assessments against the Reallocation Area in their entirety by appropriate proceedings of the City of Andover, Kansas in the amount necessary to pay the remaining unpaid costs of the Improvements and retire the City's general obligation bonds issued to finance such Improvements; (iv) consented to and requested an amendment of the 2010 Ordinance, as necessary to accomplish such assessment; (v) jointly and severally indemnified and agreed to repay the City for all costs occasioned by this request, consent and waiver (including but not limited to bond counsel fees, this amending ordinance publication costs and all legal, fiscal and administrative fees); (vi)

waived all right to any pay-in period after publication of the amending ordinance levying and reallocating such special assessments; (vii) waived the mailing of any notice to the Owners of the Special Assessments, as amended and reallocated, and did this all, and in every instance, without formal or further notice or process to the Owner whatsoever and (viii) acknowledged and agreed that the Special Assessments, to the extent previously levied and/or already certified to the appropriate officials of Butler County for the ensuing tax year shall nonetheless become due and payable by all the properties previously assessed, in accordance with their original terms; and

WHEREAS, the City finds and determines it advisable to amend the 2010 Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS AS FOLLOWS:

Section 1. *Amendment to Section 1 of Ordinance No. 1460.* Special assessments that are listed in Section 1 of Ordinance No. 1460 for Marketplace East Improvements for Block 1, Lot 2 are hereby amended by deleting the same and replacing it with the following:

Marketplace East Improvements

Legal Description	Marketplace East Sanitary Sewer <u>Impr</u> <u>ovements</u>	Marketplace East Water Distribution <u>Improvements</u>	Marketplace East Water Main <u>Impro</u> <u>vements</u>
Marketplace East Addition: Block 1, Lot 1	\$19,346.60	\$10,182.90	\$20,500.00
	Marketplace East Accel/Decel Lane at Yorktown & Kellogg <u>Improve</u> <u>ments</u>	Marketplace East Paving & Incidental Drainage <u>Improve</u> <u>ments</u>	Marketplace East Traffic Signals at Yorktown & Kellogg <u>Improvem</u> <u>ents</u>
Legal Description Marketplace East Addition: Block 1, Lot 1	\$19,024.00	\$148,338.00	\$5,125.00

Section 2. *Special Assessments already Levied or Certified.* Notwithstanding the provisions of this Ordinance, to the extent Special Assessments which are the subject of this Ordinance have been previously paid by the owners or previously certified by the City Clerk to the appropriate officials of Butler County for the ensuing tax year and not timely amended, said Special Assessments shall become due and payable by owners of the properties previously assessed, as certified and in accordance with their original terms.

Section 3. *Amending Ordinance.* This Ordinance supplements and amends Ordinance No. 1460 only to the extent necessary to reallocate the Special Assessments for the Reallocation Area (as defined above) and, except to the extent specifically amended hereby, Ordinance No. 1460 shall remain in full force and effect.

Section 4. *Effective Date.* Subject to the provisions of Section 3 hereof, this Ordinance shall take effect and be in full force from and after its adoption by the governing body of City of Andover, Kansas and its publication in the official newspaper of the City.

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PASSED, ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on January 31, 2012.

CITY OF ANDOVER, KANSAS

[seal]

By _____
Ben Lawrence, Mayor

ATTEST:

By _____
Susan C. Renner, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Andover, Kansas, met at the normal meeting place in the City on January 31, 2011, at 7:00 p.m., with Mayor Ben Lawrence presiding, and the following members of the governing body present: Byron Stout IV, Dave Tingley, Clark Nelson, Caroline Hale and Troy Tabor

and the following members absent: Sheri Geisler

Thereupon, and among other business, there was presented to the governing body, an Ordinance entitled:

AN ORDINANCE AMENDING ORDINANCE NO. 1460 OF THE CITY OF
ANDOVER, KANSAS.

Thereupon, the Ordinance was considered and discussed; and on motion of Council Member Stout, seconded by Council Member Tingley, the Ordinance was adopted by a majority vote of all members present.

Thereupon, the Ordinance having been adopted by a majority vote of the members of governing body, it was given No. 1506 and directed to be signed by the Mayor and attested by the City Clerk; and the City Clerk was directed to cause the publication of the Ordinance one time as set forth therein and required by law.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of the Minutes of the proceedings at the January 31, 2012 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk