

City of Edwardsville, Kansas

Special Benefit District Policy

Date Adopted: September 12, 2011

Section 1. Objective

The objective is to establish a policy to finance public streets, sanitary sewers, water mains, storm water and other public improvements when those improvements confer a special benefit upon property within a defined area. To merit special benefit district financing, projects should generally have a broad benefit, should create a positive effect based on a cost/benefit analysis and meet goals and objectives of the City. This is accomplished by establishing a special benefit district to levy and collect special assessments upon property in that district and provide for the payment of all or part of the improvement costs from proceeds of such special assessments.

Section 2. Scope

It is the policy of the City of Edwardsville to prudently use its authority to create benefit districts as a financing tool to encourage and promote development and improve and extend infrastructure within Edwardsville, whether initiated by petition or by the City. Benefit district financing is at the City's discretion and the Governing Body is under no obligation to approve any petitioned improvements, nor does it relinquish its authority to initiate improvements by benefit district, or other financing means, as it deems necessary, to promote the general economic health and welfare of the City.

Section 3. Provisions

A. General Policies.

1. The Benefit District Team shall review all benefit district petitions, including City initiated benefit districts to ensure compliance with City policy and state law; and provide recommendations to the Governing Body for their consideration and action.
2. Benefit district proceedings requested by a property owner(s) shall be initiated by petition on a form prescribed by the City (see Exhibit A) and shall contain the information required in K.S.A. 12-6a04, as amended.
3. All persons interested in filing a petition for a benefit district must contact the Community and Economic Development Director to schedule a pre-petition meeting with the Benefit District Team.
4. Benefit districts shall only be considered for installation of public improvements owned and maintained by the City of Edwardsville. Eligible public improvements include, but are not limited to, streets and appurtenances thereto, water, sanitary sewers, storm water or other similar benefit district projects, but does not include street lights which are not owned and maintained by the City. All public improvements must be constructed in accordance with adopted City standards and specifications.
5. The Benefit District Team shall review the impact of each benefit district proposed on the City's current and future financial condition and shall use this information to determine if it should move forward and the appropriate term of the benefit district. The term of general obligation bonds used to finance a benefit district shall not exceed the useful life of the improvement. As a general rule, the City prefers to issue general obligation bonds for benefit districts for no more than a ten (10) year term. However, when justified by the size of the project or other justified reasons provided by the petitioner or as determined by

the City, the City may approve a longer term.

6. All petitions must be submitted with the signature of more than fifty percent (50%) of the property owners within a proposed district. For some Benefit Districts, state law may require the signature of one hundred percent (100%) of the property owners within a proposed district. All property owners in a benefit district shall provide for all necessary easements and rights-of-way within the district to be dedicated without cost to the City.
7. Pursuant to K.S.A. 12-6,110 et seq. the City may, at its discretion, authorize and provide for a delay in the payment of special assessments for the cost to construct improvements in unplatted and undeveloped areas as defined herein. The period of delay may be for a designated period of time determined by the Governing Body, which term may not exceed fifteen (15) years, or until such property is platted or developed, if the same occurs prior to conclusion of the period so designated.
8. The City encourages the use of the "maximum assessment approach" as set forth in K.S.A. 12-6a09(c) and amendments thereto. This approach allows the Governing Body to hold a public hearing to establish the maximum assessment amount to be levied on the parcels within the benefit district based upon the estimated maximum amount of the costs, prior to construction of the project improvement. If the final cost of the completed improvement is less than the maximum amount of the assessment, the City shall adjust the assessments to reflect the cost of the actual improvement. If the final cost of the completed improvement is more than the maximum amount of the assessment, the City may not adjust the assessment unless such adjustment complies with the procedure to levy supplemental assessments as set forth in K.S.A. 12-6a12 and amendments thereto. Alternatively, the City may also apply the "assessment after completion approach" outlined in K.S.A. 12-6a09.

B. Tax Delinquencies.

Benefit district financing will not be approved if any party with a financial interest in the project has any delinquent tax obligations. All petitions must be certified, under oath, that the signatories have no financial interest in any real estate with delinquent special assessments, ad valorem taxes, or other City, state or federal tax liens.

C. Street Projects.

1. Arterial and Collector Street Projects.
 - a. In compliance with other provisions of this Policy, special benefit district financing may be used to finance arterial or collector street improvements in Edwardsville.
 - b. Arterial or collector streets financed with this approach must create a linkage between existing or future planned streets.

The benefit district shall be responsible for payment of the following:

- i. Two-lane arterial or collector street: The entire street shall be constructed and the district shall be responsible for one hundred percent (100%) of the costs as defined herein. The City may participate in the financing of improvements at the Governing Body's discretion.
- ii. Four-lane arterial or collector street: Identified on the City's Comprehensive Plan, but not necessitated by the development proposed to initially occur along the street, construction of the four-lane street may be phased such that the benefit district would pay the costs to improve two-lanes of the street. The property owner and all other property located within the benefit district, if any, would be required to dedicate rights-of-way for the ultimate 4-lane street for all property within their control.

- (a) When a four-lane arterial or collector street is constructed in phases by the benefit district, the timing and manner in which the ultimate construction is completed shall be at the City's discretion, and the City may determine to participate in the remaining two lanes.
- (b) Construction of the entire four-lane arterial or collector street by the property owner may be required if necessitated by initial development dependent upon the density and use. In this case, the benefit district's financial responsibility could be for the ultimate construction.

2. Local Street Projects.

- a. The City may use special benefit districts to finance local streets for projects that meet goals and objectives of the City and provide other benefits to the City, which in the sole discretion of the Governing Body, makes the use of public financing for the project in the best interest of the City.
- b. The street, storm water and other appurtenances to be financed must be public and located on public rights-of-way which shall be dedicated to the City.
- c. For special benefit districts that only include one property owner, the City may require the property owner to post a letter of credit or other guarantee in a form approved by the City Attorney, in an amount up to thirty-five percent (35%) of the cost of the improvement which shall remain in effect until the district is developed at a level agreed to by the Governing Body.
- d. Bridges, culverts and storm water within street rights-of-way necessary to maintain adequate street design will be considered part of the street construction.

D. Sanitary Sewer Projects

- 1. The total cost of all sanitary sewer construction shall be assessed one hundred percent (100%) to the property benefited in the district except as otherwise provided in this policy.
- 2. All sewer lines shall be sized for the projected ultimate development of the watershed as determined by the City and constructed in accordance with the standards and specifications adopted by the City. The City may participate in the financing of improvements at the Governing Body's discretion, particularly, in an oversize of improvements that may be required by the City.
- 3. Benefit district financing for sanitary sewer projects shall be limited to the construction or extension of mains and laterals, but not for private sewer lines.
- 4. Whenever sewage flows from a new sanitary sewer district proposed under this section are projected to require improvements to downstream sewers, the city-at-large, at the discretion of the Governing Body, may participate in the cost to parallel or upsize existing downstream sewer mains located in developed areas.
- 5. The cost to expand or construct lift station facilities shall be borne by the property owner(s). In cases where the City determines lift station facilities should be sized to accommodate future development, the property owner(s) shall pay for any costs directly attributable to the development (i.e. pumps) and shall pay a proportionate share of all other construction costs of the pump housing, wet well, force main and other appurtenances. Proportionate share shall be determined on the basis of the ratio the development area bears to the total area to be served by the facility. The City may pay the remaining costs at the discretion of the Governing Body.
- 6. Development that occurs subsequent to the construction of a lift station or any other sanitary sewer improvement for which some of the costs have been paid by the City (described in 5 above) shall pay a benefit fee as assessed by the Governing Body before being allowed to discharge sewage to the facility. This fee shall be in addition to connection, impact and other fees charged for sewer service. The fee shall

be based upon the proportionate assessment the development would have paid had it been included in the benefit district for the original construction, plus the amount of interest that would have been levied on such development had it been included in the original improvement district.

7. After construction completion of public sewer mains and facilities to the City's satisfaction, all public mains and facilities shall be accepted by the City and the City shall retain complete ownership and control of the public mains and facilities. The City shall have the right to add users to extensions and to add new extensions without the consent of any party contributing to the cost of the improvement.
8. No sewer customers will be accepted outside the City limits unless allowed by the Governing Body by separate agreement. All users outside the city limits shall be contiguous to the City limits and will be required to voluntarily annex their entire property into the City of Edwardsville.

E. Water Main Projects

1. Benefit district financing shall generally be limited to the construction or extension of water mains along arterial, collector and local residential street, but not for private service lines.
2. Water main sizes and design shall be determined in accordance with the City's adopted standards and specifications for public improvements.
3. All water lines shall be sized for the projected ultimate development and to benefit the overall distribution system as determined by the City and constructed in accordance with the specifications of the City. The City may participate in the financing of improvements at the Governing Body's discretion, particularly in an oversize of improvements that may be required by the City.
4. No water customers will be accepted outside the City limits unless allowed by the Governing Body by separate agreement. All users outside the city limits shall be contiguous to the City limits and will be required to voluntarily annex their entire property into the City of Edwardsville.

F. Storm Water or Other Similar Benefit District Projects

1. In compliance with other provisions of the Policy, the Governing Body may authorize the use of a special benefit district to finance storm water or other similar projects as authorized by K.S.A. 12-6a02, et al. The Governing Body shall distribute the cost of these improvements to the benefit district in accordance with its determination of the special benefits accruing to the district from the improvement.
2. Storm water projects that require a detention basin/pond will require a permanent easement on the property where it is located and the property owner will be responsible to maintain the basin, unless it is located on City-owned property.

Section 4. Assessment Methods

It is the burden of the petitioner for improvements to indicate on the petition the recommended method to allocate the cost of improvements within the benefit district. The assessment will exclude public rights-of-way and undevelopable land, such as public parks, public detention basins/ponds and dedicated green space.

An assessment originally levied against a parcel or lot will be recalculated on a per square foot basis against property in the original parcel or lot if the parcel or lot is subdivided after the petition is filed. Petitioners must consult with the Benefit District Team during the pre-petition meeting to make sure the proposed petition complies with state and federal law and conforms to the City's policy. The methods available to assess costs include but are not limited to:

Streets

1. Adjusted front foot
2. Front foot

Sanitary Sewers, Water Mains, Storm Water, etc.

1. Adjusted front foot
2. Front foot

3. Square foot
4. Per lot

3. Square foot
4. Per lot
5. Acre

Section 5. Procedures

City staff shall develop internal procedures to process special benefit district applications. Such procedures shall be approved and amended by the City Administrator when appropriate.

Section 6. Notice

Except in the case of a benefit district petition proposed by a single owner, the Governing Body shall attempt to notify all property owners within a proposed benefit district that certain improvements have been proposed and to include the date, time and place the Governing Body will consider said improvements. If necessary, a notice will be published in the City's official publication newspaper.

When improvements are proposed by petition, the petitioner(s) shall provide at their own expense to the City the required information for mailing of said notices to property owners within the proposed benefit district, to include those that did not sign the petition.

Section 7. Responsibility for Enforcement

The City Administrator shall be responsible to the Governing Body for the enforcement of this Policy. The City Treasurer, City Clerk and City Attorney shall assist in the implementation of this Policy. The Governing Body reserves the right to deviate from this Policy when it believes it is in the best interest of the City, and provided such deviations are in accordance with federal, state or local law.

Section 8. Definitions

- A. Benefit District Team: City Administrator, City Treasurer, City Clerk, City Attorney, City Bond Counsel and City Financial Advisor.
- B. Public Improvement: The construction, reconstruction, maintenance, restoration, replacement, renewal, repair, installation, equipping, extension or other work performed that will provide a new public facility or public infrastructure or enhances, extends or restores value or utility to an existing public facility or infrastructure, which are accepted by the Governing Body as a public improvement.
- C. Benefit District Project Costs: All costs necessarily incurred for the preparation of preliminary reports; preliminary engineering (within three years of establishing the district); plans and specifications; construction; preparation and publication of notices; resolutions, ordinances and other proceedings; consultant fees and expenses (included but not limited to engineers, architects, planners, financial consultants, attorneys for the City) and interest accrued on borrowed money during the period of construction; land or easement acquisition; materials; labor; inspection services; finance fees and other lawful expenses incurred in planning and doing any improvement. All of these costs are subject to City review to determine if appropriate. The costs will include an administrative fee up to five percent (5%) of the total cost of an improvement, as herein defined, to reimburse the City for the administration and supervision of such improvement.
- D. Undeveloped Area: As used in K.S.A. 12-6,110 et seq. means those areas which:
 1. Are equal to or less than 2 ½ acres;
 2. Have not been platted;
 3. Are primarily used for agricultural purposes; and
 4. Have a population density of less than one family per acre.

E. Arterial Street:

1. Major: The primary function of an arterial street is to move large volumes of traffic from one place to another at moderate to high speeds, provide continuous linkages between major traffic generators and serve as a transition roadway between collector streets and expressways. Planned access is its secondary function. Major arterial streets require a right-of-way minimum of one hundred twenty (120) feet. The arterial street is given preferential treatment over collector and local streets in signing and signalization of intersections. Access to private property along an arterial should be controlled to avoid hazards and the interference of traffic flow due to ingress and egress traffic movements. For that reason, the number of access points on a major arterial should be held to a minimum where they can be controlled and adequately protected. Each driveway or curb cut is essentially another intersection or friction point which reduces the ability of the thoroughfare to perform its major function of moving traffic.
2. Minor: Minor arterials carry more traffic and provide shorter links of continuous distances throughout the community than major arterials. Land access is the secondary function of these roads. For this reason, the number of lots fronting a minor arterial should be held to a minimum in order to reduce the number of driveways and points of interaction. Generally, turn lanes are provided at major intersections along minor arterial roads. Parking is generally not permitted on either side of the street. Minor arterial streets require a right-of-way minimum of eighty (80) feet.

F. Collector Street: Serves traffic desiring to travel between arterial and local streets and are used mainly for traffic movement within residential, commercial and industrial areas. Collector routes provide the combined services of funneling traffic and protecting local roads from bearing unnecessary traffic volumes. Although intended to move traffic, collector roads are generally developed to discourage any long through trips which should more appropriately be carried by arterial roads. Standards for width and construction are similar to those for minor arterials, although they should be residential in character. Turning lanes may be provided at primary entrances.

A. Local Street: All other streets in the city not previously described are classified as local streets. The ideal traffic volume for local streets is less than one thousand (1,000) vehicles per day. Local streets should provide direct access to private property. Local streets require a right-of-way minimum of fifty (50) feet.

Section 9. References

K.S.A. 12-6a01 et seq., Supp. 2003; 12-6,110 through 12-6,114.

Exhibit A

NOTE: This form is generic for a typical Special Benefit District and may need to be modified for a specific project.)

Formal Petition for Improvements

The undersigned hereby petition the Governing Body of the City of Edwardsville, Kansas, to make or cause to be made the following described improvements which will confer a special benefit upon the property described below, all in accordance with the provision of the KSA 12-6a01 et.seq.

Date: _____

Name of Petitioner(s) (typed or printed):

Name of Development: _____

Signature of Petitioner(s): _____

Street Address:

Mailing Address:

Email Address: _____ Phone Number: _____

This petition shall be filed with the City Clerk and shall contain the following information:

1. The general nature of the improvement request is as follows:
2. The probable total cost of the improvement estimate:
3. The legal description of the real property which petitioner considers will be specially benefited by such improvement is within the City of Edwardsville, Wyandotte County, Kansas, and is described as follows: to-wit: (Insert or attach legal description)
4. The requested method of assessment is:

_____ Per square foot basis against all the tracts, parcels and lots within the benefits district.

_____ Per linear front foot against all the tracts, parcels and lots within the benefit district.

_____ Per lot against all lots within the benefit district.

1. The proposed method of apportionment of cost, between the said district and the City at large, is as follows:

Benefit District 100% City at Large 0%

Petitioner requests that such improvement be made without notice and hearing as permitted in KSA 12-6a04, Subsection (1).

NOTE: In accordance with KSA 12-6a04(6), names may not be withdrawn from this Petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after such filing with the City Clerk, whichever occurs first.

Affidavit of Verification

State of Kansas)
) SS
County of Wyandotte)

The undersigned hereby certifies that the _____ (Name of Project Benefit District) petition was personally circulated and the signatures personally witnessed by each person whose signature appears thereon.

Signature of Petitioner(s)

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public in and for Said County & State

My Commission Expires: _____

(Seal)

City Clerk Certification:

The above and foregoing Petition filed with and received by the City Clerk of Edwardsville, Kansas, this ____ day of _____, _____.

City Clerk

(SEAL)

City Council Approval:

This petition was examined, considered and found sufficient by the Governing Body of the City of Edwardsville, Kansas, this ____ day of _____, _____.

City Clerk